



## CITY COUNCIL STAFF REPORT

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**TO:** Honorable Mayor and City Council                      **DATE:** November 18, 2019

**FROM:** Matthew Bronson, City Manager

**PREPARED BY:** David Hale, City Attorney

**SUBJECT:** Emergency Ordinance – Approving Just Cause Protections and Rental Increase limits

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### **RECOMMENDATION**

Consider adoption of an Emergency Ordinance approving “just cause” protections and rental increase limits to be in effect until January 1, 2020.

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### **BACKGROUND**

On September 11, 2019, the State Legislature passed AB 1482 placing limits on the amount a landlord may raise rents within any 12-month period and establishes “just cause” eviction protections. The bill was signed by the Governor on October 8, 2019, and goes into effect on January 1, 2020. At the last City Council meeting, a Grover Beach resident speaking during the “Public Communications” portion of the agenda informed the City Council that he had recently received a notice of termination of his tenancy from his landlord that he believes was given to avoid the impact of AB 1482. The notice informed this resident that he would need to move out of his home before the end of the year and the resident informed the Council that he would have to move out of Grover Beach as a result.

Grover Beach does not currently require “just cause” for the termination of any residential tenancy and the just cause provisions enacted in AB 1482 will not go into effect until January 1, 2020. The resident requested that the City Council adopt an emergency ordinance to put into place just cause requirements that would protect tenants like him until the time that AB 1482 goes into effect. The City Council directed staff to prepare an emergency ordinance for its consideration at its November 18th meeting.

Attachment 1 contains this emergency ordinance for the Council’s consideration. The ordinance includes the enactment of emergency just cause provisions and adoption of rent limits consistent with those imposed by AB 1482. The provisions allow for eviction when the tenant is “at fault” (the tenant has breached the terms of the lease or engaged in other misconduct) and for circumstances where there is “no fault” such as where the landlord wants to move into the unit.

The rent increase limits also track the provisions of AB 1482 and would limit the amount of rent increases that can be imposed to the amount allowed under the AB 1482 formula (Change in CPI + 5%, but no more than 10%). AB 1482 includes a rent roll back provision whereby the limits established in the bill apply to any rent increases imposed after March 15, 2019. If between this date and the end of this year a landlord increases rents in an amount that exceeds the cap imposed by AB 1482 if it been in effect during that time, the rents will be rolled back to the maximum amount that would have been allowed had the bill been in effect in 2019. However, the bill also provides that the landlord will be able to keep any “overpayment.” Council may wish to consider including provisions that would prohibit landlords from raising rents in 2019 higher than those allowed by the formula in AB 1482.

The proposed ordinance is presented as an emergency ordinance pursuant to Government Code Sections 36934 and 36937 (b). Section 36934 allows for an emergency/urgency ordinance to be adopted on the first reading and Section 36937 (b) requires the emergency/urgency ordinance be approved by “a four-fifths vote of the Council including a declaration for the basis of the emergency. If the ordinance is approved, it will go into effect immediately and end on January 1, 2020 as AB 1482 goes into effect on January 1, 2020.

For the Council’s information, several California cities including Los Angeles, San Mateo, Redwood City, Daly City, Milpitas, and others have adopted emergency ordinances establishing protections during the gap period before AB 1482 goes into effect. Some cities such as San Mateo and Redwood City has adopted an ordinance containing just cause protections and rent increase limits while other cities such as Daly City, Milpitas, and Los Angeles have adopted ordinances only establishing just cause protections.

### **FISCAL IMPACT**

Staff does not anticipate that the approval of the emergency ordinance will have a budget impact. The “just cause” provision provides a defense to any eviction action that may be brought against a tenant without just cause, and the rent increase limit provisions establish a private right for a tenant to sue to recover any excessive rent paid. The provisions of this ordinance will not be directly enforced by the City so there will not be implementation costs.

### **ENVIRONMENTAL DETERMINATION:**

The adoption of this emergency ordinance is exempt from compliance with the California Environmental Quality Act (“CEQA”) pursuant to CEQA Guidelines Section 15061 (b) (3), because it can be seen with certainty that there is no possibility that adoption of the ordinance may have a significant effect on the environment. The ordinance will be of limited duration, will only apply to existing residential housing units and will be uncodified or unpublished.

### **ALTERNATIVES**

The City Council has the following alternatives to consider:

1. Approval and adoption of an emergency ordinance establishing “just cause” protections and rental increase limits; or
2. Provide direction to staff.

### **PUBLIC NOTIFICATION**

The agenda was posted in accordance with the Brown Act.

### **ATTACHMENTS**

1. Emergency Ordinance

**ORDINANCE NO 19-\_\_\_\_\_**

**AN EMERGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA APPROVING JUST CAUSE EVICTION PROTECTIONS AND RENTAL RATE LIMITS EFFECTIVE IMMEDIATELY**

**WHEREAS**, The “Tenant Protection Act of 2019” (“AB 1482”) was enacted by the Legislature on September 11, 2019 and signed by the Governor on October 8, 2019; and

**WHEREAS**, effective January 1, 2020, AB 1482 will add provisions to California landlord tenant law requiring just cause for evictions and imposing limits on rent increases; and

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

**WHEREAS**, housing instability threatens the public peace, health, safety, and general welfare 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 household of limited means, given the shortage of housing, particularly affordable housing, within the City of Grover Beach and San Luis Obispo region generally; and

**WHEREAS**, as AB 1482 does not go into effect until January 1, 2020, landlords could seek to evict tenants without cause in order to implement rent increase that would not otherwise be possible after the effective date; and

**WHEREAS**, the City desires to prohibit exorbitant rental rate increases as well as evictions without just cause during this transition period; 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 thereby serve the public peace, health, safety, and general welfare; and

**WHEREAS**, Government Code Sections 36934 and 36937(b) preserve the public peace, health, safety, general welfare, where there is a declaration of the reasons for urgent action and the ordinance is adopted by four-fifths (4/5) of the Council; and

**WHEREAS**, the emergency ordinance would essentially establish the rental protections that will go into effect on January 1, 2020 under AB 1482 immediately within the City of Grover Beach to prohibit an owner of residential property from annually increasing rent more than five percent (5%) plus the percentage change in the cost of living; and

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

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF GROVER BEACH ORDAINS AS FOLLOWS:**

**Part 1. Incorporation of Recitals.** The City Council finds that the forgoing recitals and administrative report presented with this ordinance are true and correct and are incorporated in the ordinance by this reference and adopted as findings of the City Council.

**Part 2. Findings.** The City Council hereby finds, determines and declares that this emergency ordinance, adopted pursuant to Government Code Sections 36934 and 36937 is necessary because:

- (a) Housing, particularly affordable housing, is difficult to procure in the Grover Beach area. 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, safety, and general welfare the City Council finds that it is necessary to adopt an ordinance regulating rental rate increases and just cause evictions, for all reasons set forth in the recitals.
- (c) Without the imposition of this ordinance, rental rate increases and eviction without cause may result in the displacement of residential tenants who could be forced to find new housing in a ever-more expensive housing market before a non-emergency ordinance or AB 1482 would become effective, and would significantly increase the risk of residential tenants becoming homeless.
- (d) There is a current and immediate threat to the public peace, health, safety, and general welfare 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 bill, there by necessitating the immediate enactment of this emergency ordinance in order to ensure that tenants are not turned out to their homes without just cause.

**Part 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, safety, or welfare. This ordinance shall take effect immediately upon adoption in accordance with the provisions set forth in Government Code Section 36934 and 36937.

**Part 4. Just Cause Eviction Protections.**

- (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for twelve (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

twenty-four (24) months, then this section shall only apply if either of the following are satisfied:

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

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

(b) For the 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 three (3) of Section 1161 of the California 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 four (4) of Section 1161 of the California Code of Civil Procedure.

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

(E) The tenant had a written lease that terminated on or after November 18, 2019, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal or 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 California 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 four (4) of Section 1161 of the California 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 California Civil Code and Sections 13113.7 and 17926.1 of the California Health and Safety Code.

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

(J) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or licensee as described in paragraph one (1) of Section 1161 of the California Code of Civil Procedure.

(K) When the tenant fails to deliver possession of the residential property after providing the owner written notice as provided in Section 1946 of the California 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 five (5) of Section 1161 of the California 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) Compliance with order to vacate.

(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.

(ii) If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph three (3) of subdivision (d).

(D) Demolition or substantial remodel.

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

(ii) For the 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 thirty (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 three (3) of Section 1161 of the California Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day (3-day) notice to quit without an opportunity to cure may thereafter be served to terminate the tenancy.

(d) Rental assistance or waiver of rent.

(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 description in paragraph two (2) of subdivision (b), the owner shall, regardless of the tenant's income, at the owner's option, do one of the following:

(A) Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph three (3) below.

(B) Waive, in writing, the payment of rent for the final month of the tenancy, prior to the rent becoming due.

(2) If an owner issues a notice to terminate a tenancy for no-fault just cause, the owner shall notify the tenant of the tenant's right to relocation assistance or rent waiver pursuant to this section. If the owner elects to waive the rent for the final month of the tenancy as provided in subparagraph (B) of paragraph one (1), the notice shall state the amount of rent waived and that no rent is due for the final month of the tenancy.

(A) The amount of relocation assistance or rent waiver shall be equal to one (1) month of the tenant's rent that was in effect when the owner issued the notice to terminate the tenancy. Any relocation assistance shall be provided within fifteen (15) calendar days of service of the notice.

(B) If a tenant fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.

(C) The relocation assistance or rent waiver required by this section shall be credited against any other relocation assistance required by any other law.

(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 California 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 California Health and Safety Code, or an adult residential facility, as defined in Chapter six (6) of Division six (6) of Title twenty-two (22) of the Manual of Policies and Procedures published by the California State Department of Social Services.

(3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades one (1) to twelve (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 (2) 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 occupies 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 fifteen (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 California 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 California Health and Safety Code or comparable federal statutes.

(f) The provisions of this section shall apply to all residential rental units not specified as exempt from its requirements, including where a notice to vacate or quit any such rental unit has been served prior to, as of, or after the effective date of this emergency ordinance but where an unlawful detainer judgment has not been issued as of the effective date of this emergency ordinance.

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

(h) For the purposes of this section, the following definitions shall apply:

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

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

**Part 5. Rental Rate Limit Provisions.**

(a) To the extent permitted under California Civil Code Section 1954.52 and subject to subdivision (b), an owner of residential real property shall not increase the gross rental rate for a dwelling or a unit more than nine percent (9%) of the gross rental rate charged for that dwelling or unit prior to the effective date of these Rental rate Limit Provisions. In determining the gross rental amount pursuant to this section, any rent discounts, incentives, concessions, or credits offered by the owner of such unit of residential real property and accepted by the tenant shall be excluded. The gross per-month rental rate and any owner-offered discounts, incentives, concessions, or credits shall be separately listed and identified in the lease or rental agreement or any amendments to an existing lease or rental agreement.

(b) For a new tenancy in which no tenant from the prior tenancy remains in lawful possession of the residential real property, the owner may establish the initial rental rate not subject to subdivision (a). Subdivision (a) is only applicable to subsequent increases after that initial rental rate has been established.

(c) A tenant of residential real property subject to this section shall not enter into a sublease that results in a total rent for the premises that exceeds the allowable rental rate authorized by subdivision (a). Nothing in this subdivision authorizes a tenant to sublet or assign the tenant's interest where otherwise prohibited.

(d) This section shall not apply to the following residential real properties:

(1) 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 California 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 California Health and Safety Code or comparable federal statutes.

(2) Dormitories constructed and maintained in connection with any higher education institution within the state for use and occupancy by students in attendance at the institution.

(3) Housing that has been issued a certificate of occupancy after February 1, 1995.

(4) Residential real property that is alienable separate from the title to any other dwelling unit or is a subdivided interest in a subdivision as specified in subdivision (b), (d), or (f) of Section 11004.5 of the California Business and Professions Code.

(5) 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.

(e) An owner shall provide notice of any increase in the rental rate, pursuant to subdivision (a), to each tenant in accordance with California Civil Code Section 827.

(f) For the purposes of this section, the following definitions shall apply:

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

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

(g)

(1) This section shall apply to all rent increases subject to subdivision (a) effective on or after November 18, 2019.

(2) This section shall become operative on November 18, 2019.

(3) In the event that an owner has sent any rent increase notice on or after September 1, 2019, to increase the rent effective on or after November 18, 2019, the increased rent may not be by more than the amount permissible under subdivision (a) and the rental rate increase will be deemed to be the rental rate increase permitted by subdivision.

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

**Part 6. 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 the owner has violated any of the provisions of this ordinance including that the owner has demanded, accepted, received, or retained a payment or payments in excess of Rental Rate Limit Provisions.

**Part 7. Effectiveness.** This emergency ordinance shall remain in effect through December 31, 2019. On January 1, 2020, this ordinance shall be repealed and shall be of no further force and effect.

**Part 8. Environmental determination.** In accordance with California Environmental Quality Act guidelines section 15061(b)(3), adoption of this emergency ordinance is exempt from the provisions of the California Environmental Quality Act because there is no possibility that the implementation of this ordinance may have significant effects on the environment. This ordinance will apply tenant protections to existing residential units for a limited period of time.

**Part 9. Severability.** If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it should have adopted the ordinance and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared invalid or unconstitutional.

**Part 10. Legislative history and effective date.** This ordinance was adopted on November 18, 2019 and shall be effective immediately.

**INTRODUCED** at a regular meeting of the City Council held November 18, 2019 and **PASSED, APPROVED, and ADOPTED** by the City Council on November 18, 2019 on the following roll call vote, to wit:

AYES:	Council Members –
NOES:	Council Members –
ABSENT:	Council Members –
ABSTAIN:	Council Members –

**\*\*DRAFT\*\***

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JEFF LEE, MAYOR

ATTEST:

\_\_\_\_\_  
WENDI SIMS, CITY CLERK

APPROVED AS TO FORM:

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DAVID P. HALE, CITY ATTORNEY