

ORDINANCE NO. 2232-C-S

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
ADDING CHAPTERS 4 AND 5 OF TITLE 11 OF THE ANTIOCH MUNICIPAL CODE
PROHIBITING RETALIATION AGAINST AND HARASSMENT OF
RESIDENTIAL TENANTS**

WHEREAS, a shortage of rental housing and market demand for affordable housing have resulted in an imbalance between supply and demand in the rental housing market in Antioch and an imbalance of bargaining power between residential landlords and tenants;

WHEREAS, Antioch residential tenants may be unwilling or unable to assert their legal rights due to factors such as an imbalance in bargaining power and concerns of retaliation;

WHEREAS, the City Council of the City of Antioch finds that these imbalances in the rental housing market and in the bargaining power of landlords and tenants reduces stability, security, and habitability, which are detrimental to the health, safety, and general welfare of Antioch residents;

WHEREAS, the City Council finds that renters occupy nearly forty percent (40%) of residential units in the City, Antioch renters have provided public comment at several City Council meetings regarding their experiences of harassment, and additional tenant protections will benefit the public health, safety, and welfare of the City;

WHEREAS, the City Council finds that the displacement of residential tenants increases the risk that Antioch residents will lack stable and appropriate housing and, therefore, seek to institute measures to reduce the impacts of displacement on tenants, particularly tenants of limited financial means;

WHEREAS, the City Council finds that reasonable regulation of aspects of the residential landlord-tenant relationship is necessary to foster constructive communication, maintain an adequate supply of rental housing units, and protect the health, safety and general welfare of the public and that there is a lack of adequate protections and remedies in the absence of City regulations;

WHEREAS, the purpose of this policy is to preserve the public peace, health, and safety of the City by deterring harassing behavior by landlords against residential tenants, encouraging residential landlords to follow the law and uphold their responsibility to provide habitable rental properties, and establishing more effect remedies for tenants who experience harassing behavior;

WHEREAS, the purpose of this policy is also to help maintain peaceful relations in the community and minimize breaches of the peace caused by self-help evictions; to protect vulnerable populations of the Antioch community, including those referenced in the recitals of the City of Antioch Rent Stabilization Ordinance adopted on October 11, 2022; to preserve Antioch's affordable rental housing stock; to reduce the expenditure of City and community resources needed in response to involuntary displacement; and to

prevent adverse health impacts suffered by individuals—especially children, older person, persons living on fixed incomes, and other vulnerable renters in the City—and families as a result of displacement; and

WHEREAS, the City Council incorporates into this ordinance as necessary findings the recitals of this ordinance, any amendments or supplements, and any oral testimony provided on June 14, 2022, June 28, 2022, July 27, 2022, August 23, 2022, September 13, 2022, September 27, 2022, October 11, 2022, December 12, 2022, February 13, 2023, April 24, 2023, May 8, 2023, June 27, 2023, and July 25, 2023 and finds, determines, and declares that the threat to the public health, safety, and welfare of the City and its residents necessitates the enactment of the ordinance.

NOW, THEREFORE, the City Council of the City of Antioch does ordain as follows:

Section 1. The recitals above are incorporated herein.

Section 2. Chapter 4 of Title 11 of the Antioch Municipal Code, entitled “Retaliation Prohibited” is hereby added as provided below (section numbers and titles are indicated in capital letters):

§ 11-4.01 RETALIATION PROHIBITED.

(A) No landlord may threaten to bring, or bring, an action to recover possession, cause the tenant to quit the unit involuntarily, serve any notice to quit or notice of termination of tenancy, decrease 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 any right under this title.

(B) Any action of retaliation described in subdivision (A) 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.

(C) A tenant may assert retaliation affirmatively or as a defense to the landlord’s action regardless of the period of time which has elapsed between the tenant’s assertion or exercise of rights under this chapter and the alleged act of retaliation.

Section 3. The following definition is hereby added to Section 11-1.02, entitled “Definitions,” of the Antioch Municipal Code:

HOUSING SERVICES. All amenities and services related to the use or occupancy of a rental unit and common areas that are provided by the landlord, including a proportionate part of services provided to common facilities of the building and property in which the rental unit is contained. **HOUSING SERVICES** includes without limitation hot and cold water, heat, utilities, painting, elevator service, refuse removal, janitorial service, maintenance, repairs, replacement, recreational areas (including pools or gyms), laundry facilities, furnishings, storage space,

parking (including one or more automobiles), employee services, security services, insurance, the payment of property taxes, and any other benefits or privileges permitted to the tenant by agreement, whether express or implied. **HOUSING SERVICES** also includes those basic housing services required by Cal. Civil Code § 1941.1.

Section 4. Chapter 5 of Title 11 of the Antioch Municipal Code, entitled "Anti-Harassment" is hereby added as provided below (section numbers are indicated in bold, and titles are indicated in bold capital letters):

§ 11-5.01 TITLE, PURPOSE. AND APPLICABILITY.

(A) This chapter shall be known as the "Tenant Anti-Harassment Ordinance".

(B) The Tenant Anti-Harassment Ordinance augments existing protections provided to residential tenants under federal, State, and local laws to prohibit and deter tenant harassment by landlords in all residential rental units, including single-family residences and condominiums.

(C) The Tenant Anti-Harassment Ordinance applies to all landlords and tenants of residential rental units within the City, unless exempted herein, including landlords and tenants who may not be covered by other Title 11 tenant protection policies.

§ 11-5.02 EXEMPTIONS.

The following rental units are exempt from the restrictions and requirements of this chapter:

(A) Rental units in any hospital, skilled nursing facility, or health facility.

(B) Rental units in a nonprofit facility that has the primary purpose of providing short-term treatment, assistance, or therapy for alcohol, drug, or other substance abuse and the housing is provided incident to the recovery program, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception and is licensed for such purpose where such license is required.

(C) Rental units in a nonprofit facility that provides a structured living environment with the primary purpose of helping homeless persons obtain skills necessary for independent living in permanent housing and where the occupancy is restricted to a limited and specific period of time of not more than twenty-four (24) months, and where the client has been informed in writing of the temporary or transitional nature of the housing at its inception and is licensed for such purpose where such license is required.

(D) Rental units exempted from Part 4, Title 4, Chapter 2 of the California Civil Code by section 1940(b)(transient occupancy in hotels/motels), or

successor statute, unless either the landlord offers for rent or rents the rental unit for a period of thirty (30) days or more, or the landlord violates California Civil Code section 1940.1, or successor statute, to avoid tenancy status.

§ 11-5.03 HARASSMENT BY LANDLORD PROHIBITED.

(A) No landlord, and no agent or employee of the landlord, shall engage in any act or omission described below in bad faith. Each act or omission in violation of this section constitutes harassment.

(1) Interrupt, terminate, or fail to provide, or threaten to interrupt, terminate, or fail to provide, housing services required by a rental housing agreement or by State or local housing, health, or safety laws. This includes, without limitation, the following:

(a) Curtailing any utility services by any means whatsoever including, but not limited to, the cutting or removal of wires, removal of fuses, switching of breakers, and non-payment of bills for utilities that are part of the housing services. Utility services includes, but is not limited to, water, heat, electricity, gas, telephone, cable, internet, garbage and recycling collection, and sewage.

(b) Impeding reasonable access to the rental unit.

(c) Removing, without replacement within a reasonable time period, when building permits are obtained, if required, doors or windows of the rental unit.

(2) Fail to perform, or threaten to fail to perform, repairs or maintenance required by a rental housing agreement or by State or local housing, health, or safety laws.

(3) Fail to exercise due diligence in completing repairs or maintenance once undertaken or fail to follow appropriate industry repair containment or remediation protocols designed to minimize exposure to noise, dust, lead paint, mold, asbestos, or other building materials with potentially harmful health impacts.

(4) Take, or threaten to take, any action to recover possession or cause the tenant to quit the unit involuntarily, decrease a housing service, or increase rent with the intent to retaliate against a tenant for the tenant's assertion or exercise of any right under this title, including a right to request reasonable repairs or maintenance, or to deter the assertion or exercise of such rights.

(5) Solicit a tenant for sexual conduct in exchange for protection from eviction, repairs or maintenance of the rental unit or rental

property, or the fulfilment of an obligation of the landlord under the rental housing agreement or law.

(6) Abuse the right of access into a rental unit as established and limited by California Civil Code Section 1954 or successor statute, including entering or photographing portions of the rental unit that are beyond the scope of a lawful entry or inspection.

(7) Remove from the rental unit personal property, furnishings, or other items that belong to the tenant or that are part of the housing services without the prior written consent of the tenant, except when done pursuant to the procedures set forth in Civil Code Section 1980 *et seq*, or successor statute.

(8) Remove or cause removal of a tenant's vehicle from the rental property or abutting street in violation of applicable law. If applicable law allows for towing of the vehicle, then towing the vehicle does not constitute harassment.

(9) Influence or attempt to influence a tenant to vacate a rental unit through fraud, intimidation, or coercion. This includes threatening to report a tenant or other person known to the landlord to be associated with the tenant to any local, State, or federal agency based on their perceived or actual immigration status. The prohibition shall not be construed as preventing communication with such agencies regarding an alleged immigration violation as permitted by law. This provision shall also not be construed to conflict with Civil Code Section 1940.2, subd. (a)(5) or successor statute.

(10) Offer payments to a tenant to vacate more than once in six (6) months, after the tenant has notified the landlord in writing the tenant does not desire to receive further offers of payments to vacate.

(11) Attempt to coerce a tenant to vacate with offer(s) of payments to vacate that are accompanied with threats or intimidation.

(12) Threaten a tenant or their guest by word or gesture, with physical harm.

(13) Engage in verbal or nonverbal abuse of a tenant or their guest or use verbal or nonverbal actions directed at a tenant or their guest that are likely, or intended, to cause physical, mental, or emotional harm, including verbal or nonverbal actions directed toward a tenant or their guest as a member of a protected class that are likely, or intended, to cause, physical, mental, or emotional harm.

(14) Engage in any act or omission that interferes with a tenant's right to quiet use and enjoyment of a rental unit, as that right is defined by California law.

(15) Violate a law that prohibits discrimination based on actual or perceived race, color, sex (including pregnancy, childbirth, and related medical conditions), gender, sexual preference, sexual orientation, ethnic background, nationality, ancestry, place of birth, immigration or citizenship status, primary language, religion, age, source of income, military or veteran status, familial status (including parenthood, occupancy of a minor child, and composition of family unit), marital status, disability (including mental and physical disability), genetic information, or medical condition. Parentheticals in the foregoing list are without limitation.

(16) Refuse to accept or acknowledge receipt of a tenant's lawful rent payment, except when a landlord is engaged in a tenant eviction process.

(17) Refuse to cash a rent check or money order for more than 30 days, except when a landlord is engaged in a tenant eviction process.

(18) Engage in any act that interferes with a tenant's right to privacy or request information that violates a tenant's right to privacy, including, without limitation, residency or citizenship status or social security number, except as authorized by law.

(19) Misrepresent to a tenant that they are required to vacate a rental unit or otherwise entice a tenant to vacate a rental unit through misrepresentations or concealment of material facts.

(20) Force a tenant to vacate their rental unit and reregister to avoid classification as a tenant under Civil Code Section 1940.1. Forced vacation can be implied from the totality of the circumstances.

(21) Unilaterally impose or require an existing tenant to agree to material new terms of tenancy or to a new rental housing agreement, unless:

(a) Subject to subdivision (3), below, the change in the terms of tenancy is explicitly authorized by this title, California Civil Code sections 1946.2(f), 1947.5, or 1947.12, or any successor statute thereof, or is required by federal, State, or local law or regulatory agreement with a government agency; or

(b) Subject to subdivision (3), below, the change in the terms of the tenancy was accepted in writing by the tenant after

receipt of written notice from the landlord that the tenant need not accept such new terms as part of the rental agreement.

- (c) Notwithstanding the foregoing, where a rental unit is regulated by the Rent Stabilization Ordinance, § 11-3.01 *et seq.*, any change in terms of tenancy must comply with the Rent Stabilization Ordinance and associated regulations.

(22) Take any action to recover possession of a rental unit that is exempt from rent increase limitations under this title or any other provision of law by means of a rent increase that is imposed in bad faith with intent to coerce the tenant into vacating the rental unit in circumvention of State and local eviction protection laws. Evidence of bad faith may include, without limitation, the following: (i) the rent increase was substantially in excess of market rates for comparable units; (ii) the rent increase was within six months after an attempt to recover possession of the unit; and (iii) such other factors as a court may deem relevant.

(23) Prohibit, interfere with, retaliate against, or threaten retaliation against tenant organizing activities or engaging in other political activities when hosted by a tenant. "Tenant organizing activities" include the following:

- (a) Initiating contact with tenants to ascertain interest in, or seek support for forming, a tenant association or union, which may include conducting door-to-door surveys;
- (b) Joining, supporting, or operating a tenant association or union; and
- (c) Requesting or providing information, offering assistance, distributing literature, convening meetings with or without a landlord or landlord representative, or otherwise acting on behalf of one or more tenants in the building regarding housing conditions, community life, landlord-tenant relations, and/or similar issues of common interest or concern among tenants in the building.
- (d) This subdivision (A)(23) does not prohibit a landlord from establishing reasonable time, place, and manner requirements of organizing activities so long as the requirements would not effectively prohibit or substantially interfere with organizing activities.

(24) Other repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, peace or quiet of

any person lawfully entitled to occupancy of such rental unit and that cause, are likely to cause, or are intended to cause any person lawfully entitled to occupancy of a rental unit to vacate such rental unit or to surrender or waive any rights in relation to such occupancy.

(B) The conduct described in subdivision (A), above, shall not include conduct intended to communicate ideas or beliefs to the public at large and that has only an incidental effect upon a person or persons.

§ 11-5.04 NOTICE.

(A) On or before the date of commencement of a tenancy, and at the same time as any notice of termination of tenancy, a landlord shall deliver to the tenant written notice of the following in the form prescribed by the City:

(1) The tenancy is regulated by this Tenant Anti-Harassment Ordinance, Antioch Municipal Code, Title 11, Chapter 5.

(2) Section 11-5.03 of the Antioch Municipal Code prohibits landlords from engaging in certain acts or failing to perform certain acts related to a tenancy in bad faith or with a dishonest intent.

(3) Landlords that violate this chapter may be held liable for damages.

(B) The form of notice prescribed by the City shall include a Spanish language translation of the text and may include translations in additional languages or additional information deemed necessary or convenient to effectuate the purpose of this chapter.

(C) For tenancies existing on the effective date of this chapter or any amendment thereof, a landlord shall deliver to each existing tenant the written notice required by subdivision (A), above, in the form prescribed by the City within thirty (30) days of such effective date.

(D) Where a property contains more than one rental unit and an interior common area accessible by the tenants of more than one rental unit, landlords shall post the written notice required by subdivision (A), above, in the form prescribed by the City in at least one interior common area.

§ 11-5.05 SEVERANCE OF AMENITIES PROHIBITED.

(A) The following amenities, supplied in connection with use or occupancy of a rental unit, may not be severed from a tenancy without good cause: garage facilities, parking facilities, driveways, storage spaces, laundry rooms, decks, patios, backyards, gardens on the same lot, kitchen facilities, toilet facilities, or lobbies.

- (B) For purposes of this section, good cause shall include:
- (1) Required by federal, State, or local law;
 - (2) For rental units that are exempt from the Rent Stabilization Ordinance, § 11-3.01 *et seq.*, acceptance of the severance in writing by the tenant after receipt of written notice from the landlord that the tenant need not accept the severance;
 - (3) For rental units that are regulated by the Rent Stabilization Ordinance, § 11-3.01 *et seq.*, approval of the removal of amenities by a Hearing Officer; or
 - (4) Severance results from the removal of a balcony for which repair or removal was necessary for safety and the landlord has obtained all necessary permits for the removal.
- (C) A severance does not include noticed temporary unavailability of the above housing services to perform necessary work with all required permits.

§ 11-5.06 WAIVER VOID.

It is against public policy, void and unenforceable to waive or modify any provision of this chapter in an oral or written rental housing agreement.

§ 11-5.07 REMEDIES AND PENALTIES.

(A) Criminal Penalty. A violation of any provision of this chapter is punishable as an infraction or misdemeanor. A misdemeanor conviction under this article shall be punished by a fine of not more than \$1,000 for each offense or by imprisonment in the county jail for a period of not more than six months or both, as determined by the court.

(B) Civil Action. Any aggrieved person, or any person, organization, or entity who will fairly and adequately represent the interest of an aggrieved tenant(s) under this chapter, or the City may institute civil proceedings as provided by law against any landlord violating any of the provisions of this article and any person who aids, facilitates, and/or incites another to violate the provisions of this article, regardless of whether the rental unit remains occupied or has been vacated due to harassment. The burden of proof in such cases shall be preponderance of the evidence.

(C) Injunction/Equitable Relief. Any person who commits an act or engages in any pattern and practice that violates this chapter may be enjoined therefrom by a court of competent jurisdiction. A court may issue other equitable relief as appropriate. An action for injunction under this subsection may be brought by an aggrieved person, by the City Attorney, or by any person or entity who will fairly or adequately represent the interests of the protected class.

(D) Penalties and Other Monetary Awards.

(1) Any person who violates, or aids or incites another person to violate, the provisions of this chapter is liable in a court action for each and every such offense for money damages of not less than three times actual damages suffered by an aggrieved tenant (including damages for mental or emotional distress), or for the minimum damages in the sum of two thousand dollars (\$2000.00), whichever is greater, or whatever other relief the court deems appropriate, and shall be liable for such attorneys' fees and costs as may be determined by the court. In the case of an award for damages for mental or emotional distress, said award shall be trebled only if the trier of fact finds that the landlord acted in knowing violation of or reckless disregard of this chapter.

(2) Any person who violates, or aids or incites another person to violate, this chapter shall be liable for an additional civil penalty of up to five thousand dollars (\$5,000) for each offense committed against a person who is disabled within the meaning of California Government Code Section 12926, *et seq.* or successor statute, or aged sixty-five (65) or over. A tenant prevailing in court under this article may be awarded compensatory damages, rent refunds for reduction in housing services, tenant relocation costs, imposition of civil penalties up to \$10,000 per violation depending upon the severity of the violation or history of violations of this chapter by the landlord, and other appropriate relief, as adjudged by the court.

(3) The court may also award punitive damages to any plaintiff, including the City, in a proper case as defined by Civil Code Section 3294 or successor statute. The burden of proof for purposes of punitive damages shall be clear and convincing evidence.

(4) A prevailing defendant in a civil action under this section shall be entitled to an award of attorneys' fees only if it is determined by the court that the action was devoid of merit and brought in bad faith.

(E) Affirmative Defense. A violation of this chapter may be asserted as an affirmative defense in an unlawful detainer action.

(F) Additional Enforcement; Nonexclusive Remedies and Penalties. This Rent Stabilization chapter may be enforced as provided in Chapter 2 of Title 1 of this code in addition to the remedies provided herein. The remedies in this chapter shall be in addition to any other existing remedies which may be available.

Section 8. **Severability.** If any section, subsection, provision or part of this ordinance, or its application to any person or circumstance, is held to be unconstitutional or otherwise invalid, the remainder of this ordinance, and

the application of such provision to other person or circumstances, shall not be affected thereby and shall remain in full force and effect and, to that end, the provisions of this ordinance are severable.

Section 9. CEQA. The above amendment is not a project under the California Environmental Quality Act under the common-sense exemption (CEQA Guidelines §15061(b)(3) because the proposed amendment will not have a direct or reasonably foreseeable indirect physical change or effect on the environment.

Section 10. Publication. This ordinance shall be published once within fifteen (15) days upon passage and adoption in a newspaper of general circulation printed and published in the City of Antioch and shall take effect and be enforced thirty (30) days from and after the date of its adoption.

* * * * *

I HEREBY CERTIFY that the forgoing ordinance was introduced at a regular meeting of the City Council of the City of Antioch, held on the 22nd day of August 2023, and passed and adopted at a regular meeting thereof, held on the 12th day of September 2023, by the following vote:

AYES: Council Member District 4 Wilson, Mayor Pro Tem (District 1) Torres-Walker, and Mayor Thorpe

NOES: Council Member District 3 Ogorchok

ABSTAIN: None

RECUSED: Council Member District 2 Barbanica

ABSENT: None

/s/ LAMAR A. THORPE
LAMAR A. THORPE
MAYOR OF THE CITY OF ANTIOCH

ATTEST:

/s/ ELIZABETH HOUSEHOLDER
ELIZABETH HOUSEHOLDER
CITY CLERK OF THE CITY OF ANTIOCH