

ORDINANCE NUMBER O- 21447 (NEW SERIES)

DATE OF FINAL PASSAGE APR 22 2022

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SAN DIEGO ENACTING A TEMPORARY MORATORIUM ON
"NO-FAULT" EVICTIONS FOR RESIDENTIAL TENANTS
DURING THE CONTINUED LOCAL STATE OF
EMERGENCY RELATED TO THE NOVEL CORONAVIRUS,
COVID-19.

WHEREAS, a novel coronavirus, COVID-19, causes infectious disease and was first detected in other countries in December 2019; and

WHEREAS, the Centers for Disease Control and Prevention considers COVID-19 to be a very serious public health threat and the World Health Organization declared the COVID-19 outbreak to be a global pandemic; and

WHEREAS, on February 19, 2020, the County Board of Supervisors ratified a declaration of local health emergency related to COVID-19; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom proclaimed a State of Emergency in California as a result of the threat of COVID-19; and

WHEREAS, on March 12, 2020, then Mayor Kevin Faulconer proclaimed the existence of a local emergency in the City of San Diego (City) as a result of COVID-19, which the Council of the City of San Diego (Council) ratified on March 17, 2020; and

WHEREAS, the local state of emergency in the City as a result of COVID-19 has been renewed multiple times, most recently on February 8, 2022; and

WHEREAS, since March 2020, State and County public health officials have responded to the pandemic with a series of orders, including ordering all individuals living in the City of San Diego to stay home or at their place of residence, except to obtain essential services; and

WHEREAS, COVID-19 has caused, and is expected to continue to cause, serious negative impacts on the local economy and serious financial impacts to local residents, including substantial loss of income due to the loss of compensable work hours or wages, layoffs, and business closures; and

WHEREAS, in August 2020, the California legislature adopted state residential eviction protections for tenants unable to pay rent due to the COVID-19 pandemic and preempted local eviction protections; and

WHEREAS, the state eviction protections were extended to residential tenancies through March 31, 2022; and

WHEREAS, in the interest of protecting the public health and preventing transmission of COVID-19, it is essential to avoid unnecessary housing displacement during the emergency and to prevent housed individuals from falling into homelessness; and

WHEREAS, displacement of residential tenants caused by eviction creates undue hardship on these tenants by making it difficult to follow public health orders and guidance of social distancing and isolation, and puts them at risk of homelessness due to the City's documented shortage of affordable housing; and

WHEREAS, the Tenant's Right to Know Regulations in Chapter 9, Article 8, Division 7 of the San Diego Municipal Code limit the grounds for evictions of tenancies of more than two years, including "no-fault" evictions that do not arise from the action or inaction of the tenant in violation of the lease or the law; and

WHEREAS, through "no-fault" evictions, tenants can be evicted and displaced from their homes despite satisfying monthly rental obligations and acting in good faith to comply with the terms of their lease; and

WHEREAS, a tenant's sudden and immediate displacement caused by a "no-fault" eviction can have a profound impact on the financial, emotional, and professional stability of a tenant's life, which impacts are compounded by the ongoing COVID-19 pandemic; and

WHEREAS, evictions have been associated with higher COVID-19 transmission and mortality through overcrowded living environments, transiency, reduced access to healthcare, and challenges to comply with mitigation strategies; and

WHEREAS, from July 2021 through January 2022, Legal Aid Society of San Diego received nearly 1,400 requests for assistance for housing-related issues from households in the City of San Diego and approximately 23 percent of these requests involved a "no-fault" eviction; and

WHEREAS, the City's COVID-19 Housing Stability Assistance Program has received 42,759 applications for assistance during the past nine months, with the third and fourth highest number of applications received during the months of January and February 2022; and

WHEREAS, while in effect this Ordinance supersedes the Tenant's Right to Know Regulations regarding "no-fault" evictions and enacts a temporary moratorium on "no-fault" evictions to prevent tenant displacement, to promote economic stability and fairness within the City's rental market during the COVID-19 pandemic, to prevent avoidable homelessness, and to preserve the public peace, health, safety, and welfare; and

WHEREAS, it is in the public interest to take steps to ensure people remain housed during this public health emergency; and

WHEREAS, the Council finds that adopting this Ordinance is necessary and appropriate to address the threats to the public health, safety, and welfare of its citizens to ensure residents continue to have stable shelter and to protect residents from avoidable homelessness; and

WHEREAS, this Ordinance is intended to prevent tenants from being evicted when there is no just cause for eviction and the basis of the eviction is not due to any default of tenant's obligations under the lease or rental agreement including any non-payment of rent as protected by COVID-19 Tenant Relief Act of 2020, Assembly Bill 3088 (2019-2020 Reg. Sess.), as extended; and as compared to the just cause protections of the California Tenant Protection Act of 2019, Assembly Bill 1482 (2019-2020 Reg. Sess.) (Act). This Ordinance further limits the permissible reasons for termination of a residential tenancy and provides additional tenant protections. The Council intends that this Ordinance be more protective than the Act and that this Ordinance shall apply rather than the Act; NOW, THEREFORE,

BE IT ORDAINED, by the Council of the City of San Diego, as follows:

Section 1. That a temporary moratorium on no-fault residential evictions in the City of San Diego is imposed as follows:

(a) A landlord shall not evict, or endeavor to evict, a tenant where the grounds for terminating the tenancy or occupancy is not based on any alleged fault by the tenant, except in the following circumstances:

(1) The landlord intends to withdraw all rental units in all buildings or structures on a parcel of land from the rental market and the landlord has provided all tenants on the parcel with at least six months prior written notice of the landlord's intent to withdraw all rental units from the rental market;

(2) The landlord seeks to recover possession of the rental unit for repair or construction work necessary to comply with a government or court order that necessitates vacating the rental unit concerning the safety or habitability of the rental unit or where continued occupancy severely threatens the immediate health and safety of the occupants; or

(3) The landlord, or the landlord's parent, grandparent, child or grandchild intend to occupy the rental unit as their primary residence and the landlord has provided the impacted tenant with at least 90 days prior written notice of the landlord's intent to occupy the rental unit.

(b) As used in this Ordinance, the term "rental unit" means a room or group of two or more rooms designed, intended, or used for human habitation, and includes apartments, condominiums, single-dwelling units, and hotel rooms that are not used solely for transient occupancies as set forth in California Civil Code section 1940(b).

(c) As used in this Ordinance, "written" has the same definition as in San Diego Municipal Code section 11.0210.

(d) As used in this Ordinance, "endeavor to evict" shall include a landlord taking or attempting to take any of the following actions: threatening to or actually serving a notice, filing, or prosecuting any action to obtain possession of the property rented by that tenant or otherwise seeking to evict that tenant, including resorting to notice pursuant to California Code of Civil Procedure sections 1161, or 1162, filing or prosecuting any unlawful detainer action.

(e) Nothing in this Ordinance relieves the tenant of the obligation to pay rent or restricts the landlord's ability to recover rent due.

(f) A residential tenant in the City of San Diego may use the protections afforded in this Ordinance as an affirmative defense in an unlawful detainer action.

Section 2. That this Ordinance is intended to supplement, not to duplicate or contradict, applicable state and federal law and shall be construed in light of that intent. Further, this Ordinance is found to be more protective of tenants than the California Tenant Protection Act of 2019 (Act) and shall apply over the Act to tenants who qualify for protection under this Ordinance.

Section 3. That the provisions of Chapter 1, Article 1, Division 2 of the San Diego Municipal Code, including those relating to construction, interpretation, and enforcement of administrative remedies, shall apply to this Ordinance.

Section 4. That the provisions of this Ordinance, being necessary for the welfare of the City of San Diego and its residents, shall be liberally construed to effectuate its purpose, which is to protect tenants from being evicted where grounds for terminating the tenancy or occupancy are not based on any alleged fault by the tenant during recovery from the COVID-19 pandemic.

Section 5. That the City reserves the right to enforce the administrative remedies in Chapter 1, Article 2 of the San Diego Municipal Code and to pursue any other remedies legally available against individuals knowingly or intentionally violating the provisions of this Ordinance or falsifying information to qualify for the relief granted in this Ordinance.

Section 6. That a full reading of this Ordinance is dispensed with prior to passage, a written copy having been made available to the Council and the public prior to the day of its passage.

Section 7. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage, and shall remain in effect until September 30, 2022 or 60 days after the end of the local state of emergency as declared by the Mayor, whichever occurs first.

APPROVED: MARA W. ELLIOTT, City Attorney

By /s/ Hilda R. Mendoza
Hilda R. Mendoza
Deputy City Attorney

HRM:nja:sc
03/28/2022
04/04/2022 REV.
Or.Dept: Council District - 9
Doc. No.: 2929310

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of APR 19 2022.

ELIZABETH S. MALAND
City Clerk

By [Signature]
Deputy City Clerk

Approved: 4/22/22
(date)

[Signature]
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

Passed by the Council of The City of San Diego on APR 19 2022, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Monica Montgomery Steppe	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Chris Cate	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage APR 22 2022.

AUTHENTICATED BY:

TODD GLORIA
Mayor of The City of San Diego, California.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on APR 04 2022, and on APR 22 2022.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

ELIZABETH S. MALAND
City Clerk of The City of San Diego, California.
By [Signature], Deputy

Office of the City Clerk, San Diego, California
Ordinance Number O- 21447