

ORDINANCE NUMBER O- 21647 (NEW SERIES)DATE OF FINAL PASSAGE MAY 25 2023

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF DIVISION 7, AMENDING SECTIONS 98.0701 AND 98.0702, ADDING SECTIONS 98.0703, 98.0704, 98.0705, 98.0706, 98.0707, 98.0708, AND 98.0709, AND REPEALING SECTIONS 98.0720, 98.0725, 98.0730, 98.0750, AND 98.0760, RELATING TO RESIDENTIAL TENANT PROTECTIONS.

WHEREAS, San Diego Municipal Code sections 98.0701 through 98.0760, Tenants' Right to Know Regulations (Regulations), were adopted by the Council of the City of San Diego (Council) by San Diego Ordinance O-19269 (Mar. 30, 2004); and

WHEREAS, the State of California recognized the impact of evictions on individuals and established the California Tenant Protection Act of 2019, Assembly Bill 1482 (2019-2020 Reg. Sess.), California Civil Code section 1946.2 (Act), that codified eviction protections statewide to tenants in continuous and lawful occupancy of residential real property for 12 months; and

WHEREAS, the Act does not apply in the City of San Diego because the Regulations were in effect upon the Act's adoption; and

WHEREAS, the Act authorizes local jurisdictions to adopt requirements for just cause termination of a residential tenancy that are more protective than the provisions in the Act; therefore, any amendments to the Regulations that are more protective than the Act would control residential tenancies in the City; and

WHEREAS, the Council finds that from October 2021 to September 2022, for every 10 people who were unsheltered and found housing, another 13 people experienced homelessness for the first time in San Diego County, and 15,327 people became homeless for the first time while 11,861 people experiencing homelessness were connected with housing; and

WHEREAS, housing costs in the City have risen, with average rent prices increasing 46 percent from 2012 to 2019; and

WHEREAS, 50 percent of households are housing cost-burdened, meaning these households spend more than 30 percent of their income on housing costs; and

WHEREAS, 80 percent of the City's housing stock was built before 1990 and most homes built before 1990 are not wheelchair accessible, which creates barriers to finding suitable housing for individuals with accessibility needs; and

WHEREAS, further economic impacts are anticipated in the region (including high inflation, increased food and transportation costs, rising rents, and higher mortgage rates), leaving tenants vulnerable to eviction; and

WHEREAS, displacement of residential tenants caused by eviction creates undue hardship on these tenants and puts them at risk of homelessness due to the City's documented shortage of affordable housing; 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; and

WHEREAS, individuals living with disabilities often live on fixed incomes and cannot absorb rent increases, leading to difficulty in maintaining, searching for, and finding accessible housing that meets their unique housing needs, making them more susceptible to displacement; and

WHEREAS, in 2020, 27 percent of people experiencing homelessness in San Diego were 55 years old and older, and of these individuals, 88 percent became homeless in San Diego and 43 percent were experiencing homelessness for the first time. Factors contributing to

homelessness among this age group include fixed incomes, increasing rents, and significant reductions in employment opportunities; and

WHEREAS, the 2022 Point in Time Count (Count) found no fewer than 4,801 individuals experiencing homelessness across the City, which included a nine percent increase in the number of unsheltered individuals from 2020 when the Count was last completed, and found that Black San Diegans comprise 29 percent of unsheltered individuals; and

WHEREAS, for six months in a row, the Downtown San Diego Partnership counted a record high number of people experiencing homelessness in Downtown San Diego, peaking at 1,939 people in January 2023; and

WHEREAS, low-income residents are most at risk of displacement from rental housing as a result of rapidly rising rents, are more likely to have challenges staying in their homes if they are living paycheck-to-paycheck, and are often subject to predatory evictions or are unable to obtain affordable legal representation; and

WHEREAS, opposition to new housing has contributed to a severe undersupply of housing to meet the need of residents of all incomes; and

WHEREAS, the Legal Aid Society of San Diego reports a significant number of clients experiencing evictions at no fault of the client; and

WHEREAS, the City is experiencing a rental housing shortage and a humanitarian crisis of homelessness at unprecedented levels; and

WHEREAS, the City wishes to provide stronger tenant protections Citywide to protect renters from displacement and homelessness and to promote housing and neighborhood stability; and

WHEREAS, this Ordinance adopts requirements for just cause termination that further limit the reasons for termination of a residential tenancy and are more protective than the Act, provides higher relocation assistance amounts than the Act, and provides additional tenant protections that are not prohibited by any provision of law; and

WHEREAS, this Ordinance provides protections for tenants of mobilehomes not covered by the Mobilehome Residency Law (California Civil Code sections 798-799.11); and

WHEREAS, the Council intends that this Ordinance be more protective than the Act and that this Ordinance shall apply to residential tenancies in the City rather than the Act; and

WHEREAS, the Council intends that this Ordinance address threats to the public health, safety, and welfare of the residents of the City, to ensure that residents continue to have stable housing, and to protect residents from avoidable homelessness; and

WHEREAS, San Diego Municipal Code section 11.0205 titled "Validity of Code – Severability" shall apply to this Ordinance; and

WHEREAS, the provisions of Chapter 1, Article 2 of the San Diego Municipal Code, including the enforcement of judicial and administrative remedies, shall apply to this Ordinance; and

WHEREAS, the Office of the City Attorney has drafted this Ordinance based on the information provided by City and City Council staff, with the understanding that this information is complete, true, and accurate; NOW, THEREFORE,

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

Section 1. That Chapter 9, Article 8 of the San Diego Municipal Code is amended by amending the title of Division 7, to read as follows:

Division 7: Residential Tenant Protections

Section 2. That Chapter 9, Article 8, Division 7 of the San Diego Municipal Code is amended by amending sections 98.0701 and 98.0702, to read as follows:

§98.0701 Purpose and Intent

The purpose and intent of this Division is to promote stability in the San Diego rental housing market and limit adverse impacts on displaced *tenants* forced to find replacement housing in the expensive and limited San Diego housing market. This Division protects the rights of *tenants* by requiring just cause for termination of a *tenancy* consistent with California Civil Code section 1946.2, limiting the grounds for termination of a *tenancy*, requiring greater *tenant* relocation assistance in specified circumstances, and providing additional *tenant* protections. The rights conferred by this Division are in addition to any existing rights provided to *tenants* by state or federal law.

§98.0702 Definitions

For the purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Buyout agreement means an agreement where the *landlord* pays the *tenant* money or other consideration to vacate the *residential rental property*. A *buyout agreement* does not include an agreement to settle a pending unlawful detainer action.

Buyout offer means any discussion or bargaining, whether oral or written, between a *tenant* and a *landlord* regarding the possibility of entering into a *buyout agreement*. A counteroffer by the *tenant* does not end discussion or bargaining of a *buyout offer*.

Commission means the San Diego Housing Commission.

Disabled means any person with a disability as defined in California Government Code section 12955.3, as may be amended.

Dwelling unit has the same meaning as in San Diego Municipal Code section 113.0103, as may be amended.

Landlord means any person, acting as principal or through an agent, having the right to offer *residential rental property* for rent, and includes a predecessor in interest to the *landlord*.

Lease means any lease, sublease, or agreement, written or oral, for the use and occupancy of *residential rental property*.

Non-profit transitional housing means temporary housing operated by a non-profit organization for up to 24 months with supportive services to individuals and families with the goal of interim stability and support to successfully move to and maintain permanent housing, which may cover housing costs and accompanying supportive services for program participants.

Residential rental property means any dwelling or unit that is intended for human habitation, including any dwelling or unit in a mobilehome park.

Retaliation means any threat or any other adverse action against a *tenant* for exercising or attempting to exercise any right guaranteed under this Division.

Section 8 means *residential rental property* in which the *tenant* receives tenant-based housing assistance under Section 8 of the United States Housing Act of 1937, also known as the Housing Choice Voucher Program.

Senior means any person 62 years old or older.

Tenancy means the lawful right or entitlement of a *tenant* to continuously use or occupy a *residential rental property* for more than 30 days. A tenancy does not include a *lease* for a fixed-term of three months or less, including any extensions or renewals of that *lease* for a fixed-term of three months or less.

Tenant means a tenant, subtenant, lessee, sublessee, or any other natural person entitled to *lease* any *residential rental property*.

Section 3. That Chapter 9, Article 8, Division 7 of the San Diego Municipal Code is amended by adding sections 98.0703, 98.0704, 98.0705, 98.0706, 98.0707, 98.0708, and 98.0709, to read as follows:

§98.0703 Exemptions

This Division shall not apply to the following types of *residential rental properties* or residential circumstances:

- (a) transient and tourist hotel occupancy as defined in California Civil Code section 1940(b), as may be amended;
- (b) short-term residential occupancy, as defined in and subject to Chapter 5, Article 10, Division 1 of this Code, as may be amended;
- (c) housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other document as affordable housing for persons and families of very low, low, or moderate income, as defined in California Health and Safety Code section 50093, as may be amended;
- (d) housing 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 California Health and Safety Code section 50093, as may be amended, or comparable federal statutes. This exemption shall not include *Section 8*;

- (e) mobilehomes subject to the Mobilehome Residency Law (California Civil Code sections 798-799.11), as may be amended;
- (f) housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in California Health and Safety Code section 1569.2, as may be amended, an adult residential facility, as defined in Title 22, Division 6, Chapter 6 of the Manual of Policies and Procedures published by the California Department of Social Services, as may be amended, or *non-profit transitional housing*;
- (g) dormitories owned and operated by an institution of higher education or an institution offering instruction to any grade from kindergarten through 12;
- (h) *residential rental property* in which the *tenant* shares bathroom or kitchen facilities with the *landlord* who maintains their principal residence at the *residential rental property*;
- (i) single-family residence occupied by the *landlord* as the *landlord's* principal place of residence, including both of the following:
 - (1) a residence in which the *landlord*-occupant rents or leases no more than two bedrooms, two accessory dwelling units, or two junior accessory dwelling units, as defined in section 113.0103; and
 - (2) a mobilehome.

- (j) a property containing two separate *dwelling units* within a single structure in which the *landlord* occupies one of the *dwelling units* as the *landlord's* principal place of residence at the beginning of the *tenancy*, so long as the *landlord* continues in occupancy;
- (k) housing that has been issued a certificate of occupancy within the previous 15 years, unless the housing is a mobilehome; and
- (l) *residential rental property*, including a mobilehome, that is alienable separate from the title to any other *dwelling unit*, provided that both of the following apply:

- (1) The *landlord* is not any of the following:
 - (A) a real estate investment trust, as defined in California Internal Revenue Code section 856, as may be amended;
 - (B) a corporation;
 - (C) a limited liability company in which at least one member is a corporation; or
 - (D) management of a mobilehome park, as defined in California Civil Code section 798.2, as may be amended.

- (2) The *tenants* have been provided written notice that the *residential rental property* is exempt from this Division using the following statement:

This property is not subject to the just cause requirements of Chapter 9, Article 8, Division 7 of the San Diego Municipal Code. This property meets the requirements of

San Diego Municipal Code section 98.0703(l) and the landlord is not any of the following: (1) a real estate investment trust, as defined by California Internal Revenue Code section 856; (2) a corporation; (3) a limited liability company in which at least one member is a corporation; or (4) management of a mobilehome park, as defined in California Civil Code section 798.2.

For a *tenancy* existing before January 1, 2024, the notice required above may be provided in the *lease*. For a *tenancy* commenced or renewed on or after January 1, 2024, the notice required above shall be provided in the *lease*.

§98.0704 Just Cause Required for Termination of Tenancy

A *landlord* shall not terminate a *tenancy* without just cause. For purposes of this Division, just cause includes at-fault just cause and no-fault just cause.

- (a) **At-Fault Just Cause.** At-fault just cause is any of the following:
- (1) a default in the payment of rent;
 - (2) a breach of a material term of the *lease*, as described in California Code of Civil Procedure section 1161(3), as may be amended, including violation of a provision of the *lease* after being issued a written notice to correct the violation;
 - (3) the maintaining, committing, or permitting the maintenance or commission of a nuisance as described in California Code of Civil Procedure section 1161(4), as may be amended;

- (4) the committing of waste as described in California Code of Civil Procedure section 1161(4), as may be amended;
- (5) where the *tenant* has a written *lease* that terminated on or after JUN 24 2023 and after receiving a written request or demand from the *landlord*, the *tenant* refused to execute a written extension or renewal of the *lease* for a substantially similar duration and with substantially similar provisions, provided the terms of the extension or renewal do not violate this Division or any other provision of law;
- (6) criminal activity by the *tenant* on the *residential rental property*, including any common areas associated with the *residential rental property*;
- (7) a criminal threat, as defined in California Penal Code section 422(a), as may be amended, by the *tenant* regardless of where made directed at the *tenant's landlord* or any other *tenant* of the *residential rental property*;
- (8) the *tenant's* assignment or sublet of the *residential rental property* in violation of the *tenant's lease*, as described in California Code of Civil Procedure section 1161(4), as may be amended;
- (9) the *tenant's* refusal to allow the *landlord* to enter the *residential rental property* as authorized by California Civil Code sections 1101.5 and 1954, as may be amended, and California Health and Safety Code sections 13113.7 and 17926.1, as may be amended;

- (10) the *tenant's use of the residential rental property* for an unlawful purpose as described in California Code of Civil Procedure section 1161(4), as may be amended;
 - (11) where the *tenant* is an employee, agent, or licensee of the *landlord* and the *tenant* fails to vacate the *residential rental property* after their termination as an employee, agent, or licensee as described in California Code of Civil Procedure section 1161(1), as may be amended; and
 - (12) when the *tenant* fails to deliver possession of the *residential rental property* after providing the *landlord* written notice as provided in California Civil Code section 1946, as may be amended, of the *tenant's* intention to terminate the *tenancy*, or the *tenant* makes a written offer to surrender the *residential rental property* that is accepted in writing by the *landlord*, but fails to deliver possession at the time specified in that written notice as described in California Code of Civil Procedure section 1161(5), as may be amended.
- (b) **No-Fault Just Cause.** No-fault just cause is any of the following actions taken by the *landlord* in good faith, meaning the *landlord* acts without ulterior motives and with honest intent:
- (1) The *landlord* seeks to recover possession to occupy the *residential rental property* for the *landlord* or their spouse, domestic partner,

child (by blood or adoption), grandchild (by blood or adoption), parent, or grandparent.

(A) For *leases* entered into on or after JUN 24 2023, section 98.0704(b)(1) shall apply only if the *tenant* agrees to the termination in writing or if the *lease* expressly allows the *landlord* to terminate the *lease* if the *landlord* unilaterally decides to occupy the *residential rental property* for the *landlord* or their spouse, domestic partner, child (by blood or adoption), grandchild (by blood or adoption), parent, or grandparent.

(B) For *tenancies* in effect prior to JUN 24 2023, the addition of a provision allowing the *landlord* to terminate the *lease* as described in section 98.0704(b)(1) to a new lease, renewed *lease*, or fixed-term *lease* constitutes a substantially similar provision for the purposes of section 98.0704(a)(5).

(2) The *landlord* seeks to recover possession to withdraw the *residential rental property* from the rental market.

(3) The *landlord* seeks to recover possession to comply with any of the following:

(A) an order issued by a government agency or court relating to habitability that requires vacating the *residential rental property* for at least 30 days. An order issued by a

government agency or court relating to habitability that requires vacating the *residential rental property* for fewer than 30 days is not grounds to terminate a *tenancy* for just cause and a *landlord* may be required by applicable state or federal law to provide *tenant* relocation benefits;

- (B) an order issued by a government agency or court to vacate the *residential rental property*; or
- (C) a local ordinance that requires vacating the *residential rental property*.

If any government agency or court determines that the *tenant* is at fault for the condition or conditions triggering the order or need to vacate under section 98.0704(b)(3), the *tenant* shall not be entitled to any relocation assistance provided in section 98.0706(c).

- (4) The *landlord* seeks to recover possession to demolish or to substantially remodel the *residential rental property*, provided the *landlord* does all the following:
 - (A) posts at the *residential rental property* the application for the necessary permits within three business days of submittal of the application;
 - (B) secures permits necessary for the demolition or substantial remodel; and
 - (C) serves a copy of the necessary permits with a written termination notice, certified under penalty of perjury,

stating the reason for termination, the type and scope of the work to be performed, why the work cannot be reasonably accomplished in a safe manner with the *tenant* in place, and why the work requires the *tenant* to vacate *the residential rental property* for at least 30 days.

For purposes of section 98.0704(b)(4), 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 rental property* for at least 30 days. Substantially remodel does not include cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the *residential rental property* vacated.

§98.0705 Notice to Tenant of Residential Tenant Protections

- (a) *A landlord of residential rental property* subject to this Division shall provide written notice in no less than 12-point font to the *tenant*, and in a manner that complies with California Civil Code section 1632, as may be amended, that states as follows:

California law limits the amount your rent can be increased. See California Civil Code section 1947.12 for more information. Local law also provides that a landlord shall provide a statement of cause in any notice to terminate a tenancy. In some circumstances, tenants who are seniors (62 years or older) or disabled may be entitled to additional tenant protections. See Chapter 9, Article 8, Division 7 of the San Diego Municipal Code for more information.

- (b) *A landlord of residential rental property* subject to this Division shall include a copy of the Tenant Protection Guide with the written notice required by section 98.0705(a).

The *Commission* shall prepare and make available on the *Commission's* website a Tenant Protection Guide, which shall include educational information and resources for the *tenant* to understand their rights under this Division and state law, including the rights to quiet enjoyment and habitability of the *residential rental property*.

- (c) For a *tenancy* in a *residential rental property* subject to this Division existing before JUN 24 2023, the notice required by section 98.0705(a) and the Tenant Protection Guide required by section 98.0705(b) shall be provided to the *tenant* directly or as an addendum to the *lease* within 90 days of JUN 24 2023.
- (d) For a *tenancy* in a *residential rental property* subject to this Division commencing or renewed on or after JUN 24 2023, the notice required by section 98.0705(a) and the Tenant Protection Guide required by section

98.0705(b) shall be included in the *lease*, or as a written notice signed by the *tenant* at the time the *lease* is signed, with a copy provided to the *tenant*.

§98.0706 Requirements Upon Termination of Tenancy

(a) Requirements Upon Termination of *Tenancy* for At-Fault Just Cause.

If a *landlord* issues a termination notice for at-fault just case, the *landlord* shall do the following:

- (1) Notice to *Tenant*. Before a *landlord* issues a notice to terminate a *tenancy* for at-fault just cause that is a curable lease violation, the *landlord* shall first give written notice of the violation including a description of the violation and an opportunity to cure the violation under California Code of Civil Procedure section 1161(3), as may be amended. If the violation is not cured within the time period in the notice, the *landlord* may terminate the *tenancy* without another opportunity to cure by serving a three-day notice to quit.
- (2) Notice to *Commission*. The *landlord* shall provide written notice to the *Commission* of the at-fault just cause termination of *tenancy* under section 98.0704(a) no later than three business days after the date the *landlord* provided the required notice to *tenant*. Section 98.0706(a)(2) shall not apply until 30 days after the *Commission* establishes a submission portal and provides the public notice of its creation.

- (b) Requirements Upon Termination of *Tenancy* for No-Fault Just Cause. If a *landlord* issues a termination notice for no-fault just cause, the *landlord* shall do the following:
- (1) Notice to *Tenant*. The *landlord* shall give written notice to the *tenant* at least 30 or 60 days prior to the proposed date of termination as required by California Civil Code section 1946.1, as may be amended, in no less than 12-point font. The written notice shall contain the following:
- (A) The *landlord* shall provide a description of the basis for the termination.
- (B) The notice shall state the *tenant's* right to relocation assistance established in section 98.0706(c) by a direct payment to the *tenant* or rent waiver.
- (i) If the *landlord* elects to provide relocation assistance by a direct payment to the *tenant*, the notice shall state the amount of relocation assistance available to the *tenant* and that the *landlord* shall provide the payment within 15 days from the date of the notice.
- (ii) If the *landlord* elects to provide relocation assistance by rent waiver, the notice shall state the amount of rent waived and that no rent is due for the final corresponding months of the *tenancy*.

- (C) The notice shall state the *tenant's* right to receive an offer to renew the *tenancy* established in section 98.0706(d) and 30 days to accept the offer in the event the *residential rental property* is offered again for rent or lease for residential purposes within five years of the date the *tenant* was evicted under sections 98.0704(b)(1), (3), or (4), and that to exercise such right, the *tenant*:
- (i) shall notify the *landlord* in writing within 30 days of the termination notice of *tenant's* desire to receive an offer to renew the *tenancy*;
 - (ii) provide the *landlord* a mailing address or email address for the *landlord* to send the offer; and
 - (iii) provide the *landlord* a change of address or email address.
- (2) Notice to *Commission*. The *landlord* shall provide written notice to the *Commission* of the no-fault just cause termination of *tenancy* under section 98.0704(b) no later than three business days after the date the *landlord* provided the required notice to *tenant*. Section 98.0706(b)(2) shall not apply until 30 days after the *Commission* establishes a submission portal and provides the public notice of its creation.
- (c) Relocation Assistance for Termination of *Tenancy* for No-Fault Just Cause.

- (1) The *landlord* shall, regardless of the *tenant's* income or length of *tenancy* and at the *landlord's* option, provide relocation assistance to the *tenant* by one of the following:
 - (A) The *landlord* shall provide a direct payment to the *tenant*.
 - (i) Unless section 98.0706(c)(1)(A)(ii) applies, the direct payment to the *tenant* shall be in an amount equal to two months of actual rent under the *tenant's lease* in effect at the date of the notice.
 - (ii) If the *tenant* is a *senior* or *disabled*, the direct payment to the *tenant* shall be in an amount equal to three months of actual rent under the *tenant's lease* in effect at the date of the notice.
 - (B) The *landlord* shall waive, and not collect the payment by *tenant*, of any currently due or future rent under the *tenant's lease* at the time of the notice and through the remainder of the *tenancy* in an amount equal to the applicable direct payment as set forth in section 98.0706(c)(1)(A).
- (2) When more than one *tenant* occupies the *residential rental property* and the *landlord* elects to provide direct payment of relocation assistance to the *tenants*, the *landlord* may make a single direct payment to all the *tenants* named in the *lease*.

- (3) The relocation assistance required by this Division shall not relieve the *landlord's* obligation to, and shall be in addition to, the return of any deposit or security amounts owed to the *tenant*.
- (4) Any relocation assistance required by this Division shall be credited against any other relocation assistance required by any federal, state, or other local law.
- (5) If a *tenant* fails to vacate after the expiration of the notice to terminate the *tenancy*, the actual amount of any relocation assistance provided under this Division may be recoverable by *landlord* as damages in an action to recover possession of the *residential rental property*.

(d) Additional Requirement Upon Termination of a *Tenancy* for No-Fault Just Cause.

If a *residential rental property* is offered for rent or lease for residential purposes within five years of the date the *tenant* was evicted under sections 98.0704(b)(1), (3), or (4), *landlord* shall first offer to *lease* the *residential rental property* in writing to the *tenant* displaced from that unit by the no-fault just cause termination if the *tenant*:

- (1) advised the *landlord* in writing within 30 days of the termination notice of the *tenant's* desire to receive an offer to renew the *tenancy*; and

- (2) provided the *landlord* a mailing address or email address for the *landlord* to send the offer, including any change of mailing address or email address.

The *landlord* shall have the right to screen the *tenant* using industry accepted methods and shall communicate the minimum screening criteria in the written offer for the new *tenancy*. The *tenant* shall have 30 days from the date of receipt of the offer to accept.

- (e) In addition to other remedies applicable to *landlord's* failure to comply with this Division, a *landlord's* failure to strictly comply with section 98.0706 shall render void any notice of termination required by section 98.0706.

§98.0707 Buyout Agreements

It is the purpose and intent of section 98.0707 to regulate *buyout agreements* to increase the fairness of buyout negotiations and agreements, to ensure that *tenants* who enter into *buyout agreements* are aware of their rights, and to prevent *landlords* from contracting around the legal rights and remedies available to *tenants* under existing law.

- (a) Disclosure Prior to *Buyout Offers*. Prior to making a *buyout offer*, the *landlord* shall provide each *tenant* in a *residential rental property* a written disclosure that shall include the following:
 - (1) a statement that the *tenant* has a right not to enter into a *buyout agreement*;

- (2) a statement that the *tenant* may choose to consult with an attorney before entering into a *buyout agreement*;
 - (3) a statement that the *landlord* may not *retaliate* against the *tenant* for refusing to enter into or negotiate a *buyout agreement*;
 - (4) a statement that all *tenants* of a *residential rental property* may refuse to receive future *buyout offers* by providing *landlord* written notice of their refusal, which shall be effective for six months, and all *tenants* of a *residential rental property* may rescind the refusal to receive future *buyout offers* by providing *landlord* written notice of the rescission;
 - (5) a statement that the *tenant* is eligible for relocation assistance and the amount of the required relocation assistance in section 98.0706(c);
 - (6) the names of all people authorized to discuss the *buyout offer* and enter into a *buyout agreement* on the *landlord's* behalf;
 - (7) a space for each *tenant* to sign and write the date the *landlord* provided the *tenant* with the disclosure; and
 - (8) a space for the *landlord* to sign and write the date on which the *landlord* provided the *tenant* with the disclosure.
- (b) The *landlord* shall provide each *tenant* a fully executed copy of the disclosure form within three days of its execution and retain a copy of each signed disclosure form for five years, along with a record of the date the *landlord* provided the disclosure to each *tenant*.

(c) Requirements for *Buyout Agreements*. The *landlord* shall comply with the following:

- (1) The *buyout agreement* shall be in writing.
- (2) A copy of the *buyout agreement* shall be given to each *tenant* at the time the *tenant* signs the *buyout agreement*.
- (3) The *buyout agreement* shall include the following statements in bold letters in at least 14-point font in close proximity to the space reserved for the signature of the *tenant*:
 - (A) You, the tenant, have a right not to enter into this buyout agreement.
 - (B) If you, the tenant, are entitled to relocation assistance under federal, state, or local law, a buyout agreement for less than the amount of the relocation assistance to which you are entitled violates Chapter 9, Article 8, Division 7 of the San Diego Municipal Code and is void.
 - (C) You, the tenant, may choose to consult with an attorney before signing this agreement.
- (4) If the *tenant* primarily negotiates the *buyout agreement* or *lease*, orally or in writing, in a non-English language, the *landlord* shall provide the *tenant* with an English and a translated version of the *buyout agreement* at the same time.

A *buyout agreement* that does not strictly comply with all the requirements of section 98.0707(c)(1)-(4) shall be void.

- (d) *Void Buyout Agreements.* *Buyout agreements* must be for an amount that is greater than the amount of relocation assistance available to the *tenant* in section 98.0706(c). A *buyout agreement* for less than the amount of relocation assistance owed to the *tenant* violates this Division and is void.
- (e) *No Waiver.* The provisions of section 98.0707 may not be waived by a *buyout agreement*. Any term of a *buyout agreement, lease, contract, or other agreement* which purports to waive or limit a *tenant's* rights under section 98.0707 is contrary to public policy, unenforceable, and void.

§98.0708 Retaliation Prohibited

A *landlord* shall not *retaliate* against a *tenant* for exercising any right provided by this Division or seeking the enforcement of this Division.

§98.0709 Remedies

- (a) A *tenant* claiming a violation of this Division may file an action against a *landlord* in a court of competent jurisdiction.
- (b) A *tenant* may seek injunctive relief, equitable relief, and money damages, including punitive damages, in a civil action against a *landlord* for a violation of this Division.
- (c) A *tenant* may raise, as an affirmative defense, any violation or noncompliance with this Division in any action by a *landlord* to recover possession of a *residential rental property*.
- (d) Any attempt by a *landlord* to recover possession of a *residential rental property* or any actual recovery of possession of a *residential rental property* in violation of this Division shall render the *landlord* liable to the

tenant in a civil action for wrongful eviction for damages of not less than three times the actual economic damages.

- (e) Any *landlord* who fails to provide relocation assistance as required by section 98.0706(c) shall be liable to the *tenant* in a civil action for not less than three times the required relocation assistance and actual economic damages.
- (f) In an action between *landlord* and *tenant* brought under this Division that is not an unlawful detainer action, the prevailing party shall recover costs and reasonable attorney fees.
- (g) The remedies under section 98.0709 are cumulative and may be used in addition to any other remedies in this Division or at law, statute, or ordinance.
- (h) The City may enforce this Division under Chapter 1, Article 2 of this Code, including civil and criminal remedies.

Section 4. That Chapter 9, Article 8, Division 7 of the San Diego Municipal Code is amended by repealing sections 98.0720, 98.0725, 98.0730, 98.0750, and 98.0760.

Section 5. That this Ordinance is intended to supplement, not 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 residential tenants than the Act and shall apply to residential tenants in the City of San Diego instead of the Act.

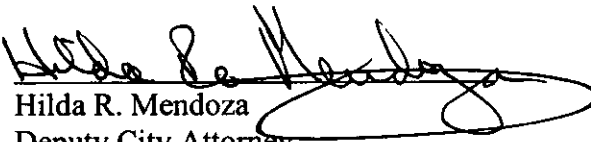
Section 6. That the provisions of this Ordinance, being necessary for the welfare of the City of San Diego and its residents, shall be liberally construed to effectuate its purpose, which is to protect residential tenants from being evicted without just cause.

Section 7. That the City Clerk is instructed to insert the effective date of this Ordinance, once known, in the blank spaces provided in the following San Diego Municipal Code sections: 98.0704; 98.0705.

Section 8. 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 9. That this Ordinance shall take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: MARA W. ELLIOTT, City Attorney

By 
Hilda R. Mendoza
Deputy City Attorney

HRM:nja:jdf:nja
03/07/2023
04/24/2023 Cor. Copy
04/25/2023 REV.
Or. Dept: Council District - 9
Doc. No.: 3278496

I hereby certify that the foregoing Ordinance was passed by the Council of the City of San Diego, at this meeting of MAY 16 2023.

DIANA J.S. FUENTES
City Clerk

By *Connie Patterson*
Deputy City Clerk

Approved: 5/25/23
(date)

Todd Gloria
TODD GLORIA, Mayor

Vetoed: _____
(date)

TODD GLORIA, Mayor

(Note The date of final passage is May 25, 2023 which represents the date this ordinance was returned to the Office of the City Clerk with the Mayor's signature of approval.)

STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-_____ (NEW SERIES)

DATE OF FINAL PASSAGE _____

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8 OF THE SAN DIEGO MUNICIPAL CODE BY AMENDING THE TITLE OF DIVISION 7, AMENDING SECTIONS 98.0701 AND 98.0702, ADDING SECTIONS 98.0703, 98.0704, 98.0705, 98.0706, 98.0707, 98.0708, AND 98.0709, AND REPEALING SECTIONS 98.0720, 98.0725, 98.0730, 98.0750, AND 98.0760, RELATING TO RESIDENTIAL TENANT PROTECTIONS.

Division 7: ~~Tenants' Right to Know Regulations~~ Residential Tenant Protections

§98.0701 ~~Purpose of Tenants' Right to Know Regulations~~ Purpose of Tenants' Right to Know Regulations and Intent

The purpose of ~~these regulations~~ and intent of this Division is to promote stability in the San Diego rental housing market and limit adverse impacts on ~~long-term residential tenants displaced and~~ tenants forced to find replacement housing in the expensive and limited San Diego housing market. ~~The regulations~~ This Division protects the rights of ~~long-term residential tenants by limiting grounds for their eviction and requiring landlords to provide notice of such grounds~~ tenants by requiring just cause for termination of a tenancy consistent with California Civil Code section 1946.2, limiting the grounds for termination of a tenancy, requiring greater tenant relocation assistance in specified circumstances, and providing additional tenant protections. The rights conferred by ~~these regulations~~ this Division are in addition to any existing rights provided in to tenants by state or federal law.

§98.0702 ~~When Tenants' Right to Know Regulations Apply~~ Definitions

~~This division applies to the rental of any *rental unit* (as defined in section 98.0720) in the City except as specifically exempted in section 98.0725.~~

For the purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

Buyout agreement means an agreement where the *landlord* pays the *tenant* money or other consideration to vacate the *residential rental property*. A *buyout agreement* does not include an agreement to settle a pending unlawful detainer action.

Buyout offer means any discussion or bargaining, whether oral or written, between a *tenant* and a *landlord* regarding the possibility of entering into a *buyout agreement*. A counteroffer by the *tenant* does not end discussion or bargaining of a *buyout offer*.

Commission means the San Diego Housing Commission.

Disabled means any person with a disability as defined in California Government Code section 12955.3, as may be amended.

Dwelling unit has the same meaning as in San Diego Municipal Code section 113.0103, as may be amended.

Landlord means any person, acting as principal or through an agent, having the right to offer *residential rental property* for rent, and includes a predecessor in interest to the *landlord*.

Lease means any lease, sublease, or agreement, written or oral, for the use and occupancy of *residential rental property*.

Non-profit transitional housing means temporary housing operated by a non-profit organization for up to 24 months with supportive services to individuals and families with the goal of interim stability and support to successfully move to and maintain permanent housing, which may cover housing costs and accompanying supportive services for program participants.

Residential rental property means any dwelling or unit that is intended for human habitation, including any dwelling or unit in a mobilehome park.

Retaliation means any threat or any other adverse action against a *tenant* for exercising or attempting to exercise any right guaranteed under this Division.

Section 8 means *residential rental property* in which the *tenant* receives tenant-based housing assistance under Section 8 of the United States Housing Act of 1937, also known as the Housing Choice Voucher Program.

Senior means any person 62 years old or older.

Tenancy means the lawful right or entitlement of a *tenant* to continuously use or occupy a *residential rental property* for more than 30 days. A tenancy does not include a *lease* for a fixed-term of three months or less, including any extensions or renewals of that *lease* for a fixed-term of three months or less.

Tenant means a tenant, subtenant, lessee, sublessee, or any other natural person entitled to lease any *residential rental property*.

§98.0703

Exemptions

This Division shall not apply to the following types of *residential rental properties* or residential circumstances:

- (a) transient and tourist hotel occupancy as defined in California Civil Code section 1940(b), as may be amended;
- (b) short-term residential occupancy, as defined in and subject to Chapter 5, Article 10, Division 1 of this Code, as may be amended;
- (c) housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other document as affordable housing for persons and families of very low, low, or moderate income, as defined in California Health and Safety Code section 50093, as may be amended;
- (d) housing 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 California Health and Safety Code section 50093, as may be amended, or comparable federal statutes. This exemption shall not include Section 8;
- (e) mobilehomes subject to the Mobilehome Residency Law (California Civil Code sections 798-799.11), as may be amended;
- (f) housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in California Health and Safety Code section 1569.2, as may be amended, an adult residential facility, as defined in Title 22, Division 6, Chapter 6 of the Manual of Policies and Procedures published by the California Department of Social Services, as may be amended, or non-profit transitional housing;

- (g) dormitories owned and operated by an institution of higher education or an institution offering instruction to any grade from kindergarten through 12;
- (h) residential rental property in which the tenant shares bathroom or kitchen facilities with the landlord who maintains their principal residence at the residential rental property;
- (i) single-family residence occupied by the landlord as the landlord's principal place of residence, including both of the following:

 - (1) a residence in which the landlord-occupant rents or leases no more than two bedrooms, two accessory dwelling units, or two junior accessory dwelling units, as defined in section 113.0103; and
 - (2) a mobilehome;
- (i) a property containing two separate dwelling units within a single structure in which the landlord occupies one of the dwelling units as the landlord's principal place of residence at the beginning of the tenancy, so long as the landlord continues in occupancy;
- (k) housing that has been issued a certificate of occupancy within the previous 15 years, unless the housing is a mobilehome; and
- (l) residential rental property, including a mobilehome, that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

 - (1) The landlord is not any of the following:

 - (A) a real estate investment trust, as defined in California;
 - Internal Revenue Code section 856, as may be amended;

- (B) a corporation;
- (C) a limited liability company in which at least one member is a corporation; or
- (D) management of a mobilehome park, as defined in California Civil Code section 798.2, as may be amended.

(2) The tenants have been provided written notice that the residential rental property is exempt from this Division using the following statement:

This property is not subject to the just cause requirements of Chapter 9, Article 8, Division 7 of the San Diego Municipal Code. This property meets the requirements of San Diego Municipal Code section 98.0703(1) and the landlord is not any of the following: (1) a real estate investment trust, as defined by California Internal Revenue Code section 856; (2) a corporation; (3) a limited liability company in which at least one member is a corporation; or (4) management of a mobilehome park, as defined in California Civil Code section 798.2.

For a tenancy existing before January 1, 2024, the notice required above may be provided in the lease. For a tenancy commenced or renewed on or after January 1, 2024, the notice required above shall be provided in the lease.

§98.0704 Just Cause Required for Termination of Tenancy

A landlord shall not terminate a tenancy without just cause. For purposes of this Division, just cause includes at-fault just cause and no-fault just cause.

(a) At-Fault Just Cause. At-fault just cause is any of the following:

- (1) a default in the payment of rent;**
- (2) a breach of a material term of the lease, as described in California Code of Civil Procedure section 1161(3), as may be amended, including violation of a provision of the lease after being issued a written notice to correct the violation;**
- (3) the maintaining, committing, or permitting the maintenance or commission of a nuisance as described in California Code of Civil Procedure section 1161(4), as may be amended;**
- (4) the committing of waste as described in California Code of Civil Procedure section 1161(4), as may be amended;**
- (5) where the tenant has a written lease that terminated on or after _____ and after receiving a written request or demand from the landlord, the tenant refused to execute a written extension or renewal of the lease for a substantially similar duration and with substantially similar provisions, provided the terms of the extension or renewal do not violate this Division or any other provision of law;**

- (6) criminal activity by the *tenant* on the *residential rental property*, including any common areas associated with the *residential rental property*;
- (7) a criminal threat, as defined in California Penal Code section 422(a), as may be amended, by the *tenant* regardless of where made directed at the *tenant's landlord* or any other *tenant* of the *residential rental property*;
- (8) the *tenant's* assignment or sublet of the *residential rental property* in violation of the *tenant's lease*, as described in California Code of Civil Procedure section 1161(4), as may be amended;
- (9) the *tenant's* refusal to allow the *landlord* to enter the *residential rental property* as authorized by California Civil Code sections 1101.5 and 1954, as may be amended, and California Health and Safety Code sections 13113.7 and 17926.1, as may be amended;
- (10) the *tenant's* use of the *residential rental property* for an unlawful purpose as described in California Code of Civil Procedure section 1161(4), as may be amended;
- (11) where the *tenant* is an employee, agent, or licensee of the *landlord* and the *tenant* fails to vacate the *residential rental property* after their termination as an employee, agent, or licensee as described in California Code of Civil Procedure section 1161(1), as may be amended; and

(12) when the *tenant* fails to deliver possession of the *residential rental property* after providing the *landlord* written notice as provided in California Civil Code section 1946, as may be amended, of the *tenant's* intention to terminate the *tenancy*, or the *tenant* makes a written offer to surrender the *residential rental property* that is accepted in writing by the *landlord*, but fails to deliver possession at the time specified in that written notice as described in California Code of Civil Procedure section 1161(5), as may be amended.

(b) **No-Fault Just Cause.** No-fault just cause is any of the following actions taken by the *landlord* in good faith, meaning the *landlord* acts without ulterior motives and with honest intent:

(1) The *landlord* seeks to recover possession to occupy the *residential rental property* for the *landlord* or their spouse, domestic partner, child (by blood or adoption), grandchild (by blood or adoption), parent, or grandparent.

(A) For leases entered into on or after _____, section 98.0704(b)(1) shall apply only if the *tenant* agrees to the termination in writing or if the *lease* expressly allows the *landlord* to terminate the *lease* if the *landlord* unilaterally decides to occupy the *residential rental property* for the *landlord* or their spouse, domestic partner,

child (by blood or adoption), grandchild (by blood or adoption), parent, or grandparent.

- (B) For tenancies in effect prior to _____, the addition of a provision allowing the landlord to terminate the lease as described in section 98.0704(b)(1) to a new lease, renewed lease, or fixed-term lease constitutes a substantially similar provision for the purposes of section 98.0704(a)(5).
- (2) The landlord seeks to recover possession to withdraw the residential rental property from the rental market.
- (3) The landlord seeks to recover possession to comply with any of the following:
- (A) an order issued by a government agency or court relating to habitability that requires vacating the residential rental property for at least 30 days. An order issued by a government agency or court relating to habitability that requires vacating the residential rental property for fewer than 30 days is not grounds to terminate a tenancy for just cause and a landlord may be required by applicable state or federal law to provide tenant relocation benefits;
- (B) an order issued by a government agency or court to vacate the residential rental property; or

(C) a local ordinance that requires vacating the residential rental property.

If any government agency or court determines that the tenant is at fault for the condition or conditions triggering the order or need to vacate under section 98.0704(b)(3), the tenant shall not be entitled to any relocation assistance provided in section 98.0706(c).

(4) The landlord seeks to recover possession to demolish or to substantially remodel the residential rental property, provided the landlord does all the following:

(A) posts at the residential rental property the application for the necessary permits within three business days of submittal of the application;

(B) secures permits necessary for the demolition or substantial remodel; and

(C) serves a copy of the necessary permits with a written termination notice, certified under penalty of perjury, stating the reason for termination, the type and scope of the work to be performed, why the work cannot be reasonably accomplished in a safe manner with the tenant in place, and why the work requires the tenant to vacate the residential rental property for at least 30 days.

For purposes of section 98.0704(b)(4), 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 rental property for at least 30 days. Substantially remodel does not include cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential rental property vacated.

§98.0705 Notice to Tenant of Residential Tenant Protections

- (a) A landlord of residential rental property subject to this Division shall provide written notice in no less than 12-point font to the tenant, and in a manner that complies with California Civil Code section 1632, as may be amended, that states as follows:

California law limits the amount your rent can be increased. See California Civil Code section 1947.12 for more information. Local law also provides that a landlord shall provide a statement of cause in any notice to terminate a tenancy. In some circumstances, tenants who are seniors (62 years or older) or disabled may be entitled to additional tenant protections. See Chapter 9, Article 8, Division 7 of the San Diego Municipal Code for more information.

- (b) A landlord of residential rental property subject to this Division shall include a copy of the Tenant Protection Guide with the written notice required by section 98.0705(a).
- The Commission shall prepare and make available on the Commission's website a Tenant Protection Guide, which shall include educational information and resources for the tenant to understand their rights under this Division and state law, including the rights to quiet enjoyment and habitability of the residential rental property.
- (c) For a tenancy in a residential rental property subject to this Division existing before _____, the notice required by section 98.0705(a) and the Tenant Protection Guide required by section 98.0705(b) shall be provided to the tenant directly or as an addendum to the lease within 90 days of _____.
- (d) For a tenancy in a residential rental property subject to this Division commencing or renewed on or after _____, the notice required by section 98.0705(a) and the Tenant Protection Guide required by section 98.0705(b) shall be included in the lease, or as a written notice signed by the tenant at the time the lease is signed, with a copy provided to the tenant.

§98.0706 Requirements Upon Termination of Tenancy

- (a) Requirements Upon Termination of Tenancy for At-Fault Just Cause. If a landlord issues a termination notice for at-fault just cause, the landlord shall do the following:

- (1) Notice to Tenant. Before a landlord issues a notice to terminate a tenancy for at-fault just cause that is a curable lease violation, the landlord shall first give written notice of the violation including a description of the violation and an opportunity to cure the violation under California Code of Civil Procedure section 1161(3), as may be amended. If the violation is not cured within the time period in the notice, the landlord may terminate the tenancy without another opportunity to cure by serving a three-day notice to quit.
 - (2) Notice to Commission. The landlord shall provide written notice to the Commission of the at-fault just cause termination of tenancy under section 98.0704(a) no later than three business days after the date the landlord provided the required notice to tenant. Section 98.0706(a)(2) shall not apply until 30 days after the Commission establishes a submission portal and provides the public notice of its creation.
- (b) Requirements Upon Termination of Tenancy for No-Fault Just Cause. If a landlord issues a termination notice for no-fault just cause, the landlord shall do the following:
- (1) Notice to Tenant. The landlord shall give written notice to the tenant at least 30 or 60 days prior to the proposed date of termination as required by California Civil Code section 1946.1, as may be amended, in no less than 12-point font. The written notice shall contain the following:

- (A) The landlord shall provide a description of the basis for the termination.
- (B) The notice shall state the tenant's right to relocation assistance established in section 98.0706(c) by a direct payment to the tenant or rent waiver.
- (i) If the landlord elects to provide relocation assistance by a direct payment to the tenant, the notice shall state the amount of relocation assistance available to the tenant and that the landlord shall provide the payment within 15 days from the date of the notice.
- (ii) If the landlord elects to provide relocation assistance by rent waiver, the notice shall state the amount of rent waived and that no rent is due for the final corresponding months of the tenancy.
- (C) The notice shall state the tenant's right to receive an offer to renew the tenancy established in section 98.0706(d) and 30 days to accept the offer in the event the residential rental property is offered again for rent or lease for residential purposes within five years of the date the tenant was evicted under sections 98.0704(b)(1), (3), or (4), and that to exercise such right, the tenant:

equal to two months of actual rent under the
tenant's lease in effect at the date of the notice.

(ii) If the tenant is a senior or disabled, the direct
payment to the tenant shall be in an amount equal to
three months of actual rent under the tenant's lease
in effect at the date of the notice.

(B) The landlord shall waive, and not collect the payment by
tenant, of any currently due or future rent under the
tenant's lease at the time of the notice and through the
remainder of the tenancy in an amount equal to the
applicable direct payment as set forth in section
98.0706(c)(1)(A).

(2) When more than one tenant occupies the residential rental
property and the landlord elects to provide direct payment of
relocation assistance to the tenants, the landlord may make a
single direct payment to all the tenants named in the lease.

(3) The relocation assistance required by this Division shall not relieve
the landlord's obligation to, and shall be in addition to, the return
of any deposit or security amounts owed to the tenant.

(4) Any relocation assistance required by this Division shall be
credited against any other relocation assistance required by any
federal, state, or other local law.

(5) If a *tenant* fails to vacate after the expiration of the notice to terminate the *tenancy*, the actual amount of any relocation assistance provided under this Division may be recoverable by *landlord* as damages in an action to recover possession of the *residential rental property*.

(d) Additional Requirement Upon Termination of a *Tenancy* for No-Fault Just Cause.

If a *residential rental property* is offered for rent or lease for residential purposes within five years of the date the *tenant* was evicted under sections 98.0704(b)(1), (3), or (4), *landlord* shall first offer to lease the *residential rental property* in writing to the *tenant* displaced from that unit by the no-fault just cause termination if the *tenant*:

(1) advised the *landlord* in writing within 30 days of the termination notice of the *tenant*'s desire to receive an offer to renew the *tenancy*; and

(2) provided the *landlord* a mailing address or email address for the *landlord* to send the offer, including any change of mailing address or email address.

The *landlord* shall have the right to screen the *tenant* using industry accepted methods and shall communicate the minimum screening criteria in the written offer for the new *tenancy*. The *tenant* shall have 30 days from the date of receipt of the offer to accept.

- (e) In addition to other remedies applicable to *landlord's* failure to comply with this Division, a *landlord's* failure to strictly comply with section 98.0706 shall render void any notice of termination required by section 98.0706.

§98.0707 Buyout Agreements

It is the purpose and intent of section 98.0707 to regulate *buyout agreements* to increase the fairness of buyout negotiations and agreements, to ensure that *tenants* who enter into *buyout agreements* are aware of their rights, and to prevent *landlords* from contracting around the legal rights and remedies available to *tenants* under existing law.

- (a) Disclosure Prior to *Buyout Offers*. Prior to making a *buyout offer*, the *landlord* shall provide each *tenant* in a *residential rental property* a written disclosure that shall include the following:
- (1) a statement that the *tenant* has a right not to enter into a *buyout agreement*;
 - (2) a statement that the *tenant* may choose to consult with an attorney before entering into a *buyout agreement*;
 - (3) a statement that the *landlord* may not *retaliate* against the *tenant* for refusing to enter into or negotiate a *buyout agreement*;
 - (4) a statement that all *tenants* of a *residential rental property* may refuse to receive future *buyout offers* by providing *landlord* written notice of their refusal, which shall be effective for six months, and all *tenants* of a *residential rental property* may rescind the refusal

to receive future *buyout offers* by providing *landlord* written notice of the rescission;

- (5) a statement that the *tenant* is eligible for relocation assistance and the amount of the required relocation assistance in section 98.0706(c);
 - (6) the names of all people authorized to discuss the *buyout offer* and enter into a *buyout agreement* on the *landlord's* behalf;
 - (7) a space for each *tenant* to sign and write the date the *landlord* provided the *tenant* with the disclosure; and
 - (8) a space for the *landlord* to sign and write the date on which the *landlord* provided the *tenant* with the disclosure.
- (b) The *landlord* shall provide each *tenant* a fully executed copy of the disclosure form within three days of its execution and retain a copy of each signed disclosure form for five years, along with a record of the date the *landlord* provided the disclosure to each *tenant*.
- (c) Requirements for *Buyout Agreements*. The *landlord* shall comply with the following:
- (1) The *buyout agreement* shall be in writing.
 - (2) A copy of the *buyout agreement* shall be given to each *tenant* at the time the *tenant* signs the *buyout agreement*.
 - (3) The *buyout agreement* shall include the following statements in bold letters in at least 14-point font in close proximity to the space reserved for the signature of the *tenant*:

- (A) You, the tenant, have a right not to enter into this buyout agreement.
- (B) If you, the tenant, are entitled to relocation assistance under federal, state, or local law, a buyout agreement for less than the amount of the relocation assistance to which you are entitled violates Chapter 9, Article 8, Division 7 of the San Diego Municipal Code and is void.
- (C) You, the tenant, may choose to consult with an attorney before signing this agreement.
- (4) If the tenant primarily negotiates the buyout agreement or lease, orally or in writing, in a non-English language, the landlord shall provide the tenant with an English and a translated version of the buyout agreement at the same time.

A buyout agreement that does not strictly comply with all the requirements of section 98.0707(c)(1)-(4) shall be void.

- (d) Void Buyout Agreements. Buyout agreements shall be for an amount that is greater than the amount of relocation assistance available to the tenant in section 98.0706(c). A buyout agreement for less than the amount of relocation assistance owed to the tenant violates this Division and is void.
- (e) No Waiver. The provisions of section 98.0707 may not be waived by a buyout agreement. Any term of a buyout agreement, lease, contract, or other agreement which purports to waive or limit a tenant's rights under section 98.0707 is contrary to public policy, unenforceable, and void.

§98.0708 **Retaliation Prohibited**

A landlord shall not retaliate against a tenant for exercising any right provided by this Division or seeking the enforcement of this Division.

§98.0709 **Remedies**

- (a) A tenant claiming a violation of this Division may file an action against a landlord in a court of competent jurisdiction.
- (b) A tenant may seek injunctive relief, equitable relief, and money damages, including punitive damages, in a civil action against a landlord for a violation of this Division.
- (c) A tenant may raise, as an affirmative defense, any violation or noncompliance with this Division in any action by a landlord to recover possession of a residential rental property.
- (d) Any attempt by a landlord to recover possession of a residential rental property or any actual recovery of possession of a residential rental property in violation of this Division shall render the landlord liable to the tenant in a civil action for wrongful eviction for damages of not less than three times the actual economic damages.
- (e) Any landlord who fails to provide relocation assistance as required by section 98.0706(c) shall be liable to the tenant in a civil action for not less than three times the required relocation assistance and actual economic damages.

- (f) In an action between *landlord* and *tenant* brought under this Division that is not an unlawful detainer action, the prevailing party shall recover costs and reasonable attorney fees.
- (g) The remedies under section 98.0709 are cumulative and may be used in addition to any other remedies in this Division or at law, statute, or ordinance.
- (h) The City may enforce this Division under Chapter 1, Article 2 of this Code, including civil and criminal remedies.

§98.0720 Definitions

~~The following definitions apply to the administration and enforcement of this division:~~

~~“*Condominium*” means the same as defined in sections 783 and 1351(f) of the California Civil Code.~~

~~“*Landlord*” means an owner, lessor, sublessor or any other person or entity entitled to offer any residential unit for rent or entitled to receive rent for the use and occupancy of any *rental unit*.~~

~~“*Resident manager*” means a person who resides on the premises and is employed to perform or to be responsible for the operation and/or maintenance of the *rental units* on the premises.~~

~~“*Rental unit*” means a room or a group of two or more rooms designed, intended, or used for human habitation. *Rental units* include apartments, *condominiums*, *stock cooperatives*, *single dwelling units*, and hotel units not exempted under section 98.0725.~~

~~“Single dwelling unit” means a single detached structure containing one dwelling unit for human habitation and accessory buildings appurtenant thereto located on a lot or parcel and all housing services provided in connection with the use or occupancy thereof.~~

~~“Stock cooperative” means the same as defined in California Business and Professions Code section 11003.2.~~

~~“Tenancy” means the right or entitlement of a tenant to use or occupy a rental unit.~~

§98.0725 Exemptions

~~The following shall be exempt from the requirements of this division:~~

- (a) **Institutional Facilities.** ~~Housing accommodations in any hospital, convent, monastery, extended care facility, asylum, nonprofit home for the aged, fraternity, or sorority house, housing accommodations owned, operated, or managed by a bona fide educational institution for occupancy by its students or rental units that require intake, case management or counseling and an occupancy agreement as part of the occupation.~~
- (b) **Agency Owned or Subsidized Units.** ~~Any rental unit owned, operated, or subsidized by any government agency, and which is therefore subject to substantially similar or greater state or federal eviction controls.~~
- (c) **Rooms Rented to Boarders.** ~~A rental unit in which the landlord owns the rental unit, shares kitchen or bath facilities with the tenants, and also occupies the rental unit or a unit in the same building as his or her principal residence.~~

- (d) ~~Rental Units in Hotels, Motels, or Rooming Houses Rented to Transient Guests~~ which do not qualify as Single Room Occupancy Hotel Rooms pursuant to San Diego Municipal Code Chapter 14, Article 3, Division 5.
- (e) ~~Mobile Homes~~. Mobile homes subject to Mobilehome Residency Law (California Civil Code, Chapter 2.5).
- (f) Transient occupancies defined by California Civil Code section 1940(b).

§98.0730 Termination of Tenancy

A residential *tenancy* of more than two years duration shall not be terminated, nor shall its renewal be refused, except for one or more of the following reasons:

- (a) ~~Nonpayment of Rent.~~
- (b) ~~Violation of Obligation of Tenancy.~~ The tenant has violated a lawful and material obligation or covenant of the *tenancy*, except that the following may not be grounds for termination or nonrenewal of a *tenancy*:
 - (1) The failure to surrender possession of the rental unit upon the expiration of a specified term, except as provided in section 98.0730(e);
- (e) ~~Nuisance.~~ The tenant is committing a nuisance or permitting a nuisance in, or is causing damage to, the *rental unit* or to the appurtenances thereof or to the common areas of the housing complex containing the *rental unit*, or is creating an unreasonable interference with the comfort, safety, or enjoyment of any of the other residents of the housing complex.

- (d) **Illegal Use.** The tenant is using or permitting the *rental unit* to be used for an illegal purpose.
- (e) **Refusal to Renew Lease.** The tenant who had a written lease or rental agreement which terminated on or after April 26, 2004 has refused, after written request by the *landlord*, to execute a written extension or renewal thereof within the written period prescribed by the lease or state law for a further term of like duration with similar provisions.
- (f) **Refusal to Provide Access.** The tenant has refused to give the *landlord* reasonable access to the *rental unit* for the purpose of making repairs or improvements, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the *rental unit* to any prospective purchaser or mortgagee.
- (g) **Correction of Violations.** The *landlord*, after having obtained all necessary permits from the City of San Diego, seeks to recover possession of the *rental unit* for necessary repair or construction when removal of the tenant is reasonably necessary to accomplish the repair or construction work.
- (h) **Withdrawal of Residential Rental Structure from the Rental Market.** The *landlord* intends to withdraw all *rental units* in all buildings or structures on a parcel of land from the rental market.
- (i) **Owner or Relative Occupancy.** The *landlord*, or his or her spouse, parent, grandparent, brother, sister, child, grandchild (by blood or

adoption), or a *resident manager* plans to occupy the *rental unit* as their principal residence.

§98.0750 Notice to Tenant

~~Any *landlord* who attempts to terminate a *tenancy* pursuant to any of the grounds set forth in section 98.0730 shall provide the tenant a written notice to quit or terminate which recites the grounds under which the *landlord* is proceeding. The *landlord* shall provide the notice prior to or at the same time as the written notice of termination set forth in Civil Code section 1946.1, or a three-day notice described in Code of Civil Procedure sections 1161 and 1161a, is served on the tenant.~~

§98.0760 Affirmative Defense

~~In any action by a *landlord* to recover possession of a *rental unit*, the tenant may raise as an affirmative defense any violation or noncompliance with the provisions of this division.~~

HRM:nja:jdf;nja
03/07/2023
04/24/2023 Cor. Copy
04/25/2023 REV.
Or. Dept: District Council – 9
Doc. No.: 3278491_2

Passed by the Council of The City of San Diego on MAY 16 2023, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input type="checkbox"/>	<input checked="" 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"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input 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 MAY 25 2023.

AUTHENTICATED BY:

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

(Seal)

DIANA J.S. FUENTES
Interim 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 25 2023, and on MAY 25 2023.

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)

DIANA J.S. FUENTES
Interim City Clerk of The City of San Diego, California.

By [Signature], Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21647