

ORDINANCE NO. NS-XXXX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF SANTA ANA REQUIRING JUST CAUSE
EVICTIONS

THE CITY COUNCIL OF THE CITY OF SANTA ANA DOES ORDAIN AS
FOLLOWS:

Section 1. The City Council of Santa Ana hereby finds, determines, and declares as follows:

- A. At the City Council meeting on September 21, 2021, the City Council discussed the City of Santa Ana's ("Santa Ana" or "City") ability to address just cause evictions.
- B. Housing instability threatens the public peace, health, and safety as eviction from one's home can lead to prolonged homelessness; increased residential mobility; loss of community; strain on household finances due to the necessity of paying rental application fees and security deposits; stress and anxiety experienced by those displaced; increased commute times and traffic impacts if displaced workers cannot find affordable housing within the city in which they work; and interruption of the education of children in the home.
- C. Eviction creates particular hardships for individuals and households of limited means, given the shortage of affordable housing within the City of Santa Ana and the region generally.
- D. According to the May 2017 report by the California Housing Partnership Corporation, median rent in Orange County, which includes Santa Ana, has increased twenty-eight percent (28%) since 2000, while median renter household income has declined by 9%, when adjusted for inflation. Additionally, the May 2020 report by the California Housing Partnership Corporation demonstrated that renters need to earn \$42.23/hr, or, 3.2 times the state minimum wage to afford an average monthly asking rent of \$2,196 for a two-bedroom apartment in Orange County.
- E. Orange County's lowest income renters spend eighty-one percent (81%) of their income on rent, leaving very little to meet other basic human needs such as food and health.
- F. If Santa Ana renter-occupied households paid thirty percent (30%) of their income on housing, renters would have an extra \$176 million dollars of disposable income (income minus housing costs) to spend in the community each year, or \$7,000 per household. Additionally, racial inequities would

decrease, as the yearly disposable income would increase by 14% for Latinos, 13% for Asian or Pacific Islanders, and 7% for Whites.

- G. The housing rent burden and poverty faced by many residents in Santa Ana threatens the health, safety, and welfare of its residents, particularly when resulting in eviction and displacement. Studies have shown that evictions play an impactful role in the lives of low income renter households and can also contribute to poverty through disruptive effects such as job loss, adverse health effects, and negative consequences for children.
- H. Moreover, an eviction can remain on a renter's credit history for at least seven years, impacting one's ability to rent and find employment opportunities.
- I. Mobilehome Parks comprise approximately five percent (5.1%) of all housing in Santa Ana. The city has 29 Mobilehome Parks containing 3,913 spaces. Six of the Mobilehome Parks and one thousand twenty spaces in Santa Ana are currently age-restricted to persons 55 years of age or older.
- J. The City Council has received public testimony at multiple meetings from Santa Ana residents who declared that they and their neighbors were unwilling to register complaints against their landlords over unsuitable living conditions and/or violations of their leases by landlords or management companies, based on a fear of being evicted without just cause.
- K. The California State Legislature adopted the Tenant Protection Act of 2019 ("AB 1482"), codified in part in California Civil Code section 1946.2 ("section 1946.2"), which became effective by its own terms on January 1, 2020, and, with certain exceptions, prohibits an owner of residential property from terminating a tenancy without just cause.
- L. AB 1482 provides that a local ordinance adopted after September 1, 2019, requiring just cause for termination of a residential tenancy shall supersede California Civil Code section 1946.2 only if the ordinance is "more protective" than section 1946.2.
- M. In accordance with California Civil Code section 1946.2(g)(1)(B), the City Council finds that the provisions of this Ordinance regulating just cause terminations or tenancies are more protective than California Civil Code section 1946.2 for the following reasons:
 - 1. The just cause for termination of a residential tenancy under this Ordinance is consistent with California Civil Code section 1946.2.
 - 2. This Ordinance provides additional tenant protections that are not prohibited by any other provisions of applicable law.

- N. The City Council finds and determines that regulating the relations between residential landlords and tenants will increase certainty and fairness within the residential rental market in the City and thereby serve the public peace, health, and safety.
- O. Pursuant to the City's police power, as granted broadly under Article XI, section 7 of the California Constitution, and Santa Ana Charter section 200, the Santa Ana City Council has the authority to enact and enforce ordinances and regulations for the public peace, health, and welfare of the City and its residents.
- P. Pursuant to Santa Ana City Charter sections 415 and 417, this Ordinance is declared by the City Council to be necessary as an emergency measure to protect and preserve the health, safety and welfare of the residents of the City of Santa Ana and will become effective immediately if passed by the affirmative votes of at least two-thirds (2/3) of the members of the City Council. The City Council hereby finds that there is an urgent need to adopt these regulations in order to address the current and immediate threats set forth below.
1. Housing, particularly affordable housing, is difficult to procure in this region, including in Santa Ana. Evictions without just cause destabilize the housing market and can result in the loss of affordable housing;
 2. For the immediate preservation of the public peace, health, and safety, the City Council finds that it is necessary to adopt an ordinance regulating just cause evictions, for all of the reasons set forth in the recitals above, which are hereby incorporated by reference;
 3. Without the imposition of this Urgency Ordinance, evictions without just cause may result in the displacement of residential tenants who would be forced to find new housing in an ever-more expensive housing market before a non-urgency ordinance would become effective, and would significantly increase the risk of residential tenants becoming homeless; and,
 4. There is a current and immediate threat to the public peace, health, and safety of the City and its community due in part to the pending expiration of the state COVID-19 emergency residential eviction moratorium on September 30, 2021, which increases the risk of evictions without just cause, thereby necessitating the immediate enactment of this Urgency Ordinance in order to ensure that tenants are not turned out of their homes without just cause.
- Q. The Request for Council Action for this ordinance dated September 21, 2021, shall be incorporated herein by this reference, and together with this ordinance, any amendments or supplements, and oral testimony, shall constitute the necessary findings for this ordinance.

- R. The City Council finds, determines, and declares that the current and immediate threat to the public health, safety, and welfare of the City and its residents necessitates the immediate enactment of the ordinance. The facts constituting such urgency are set forth in this Section 1, paragraphs A-Q, of this ordinance.

Section 2. The recitals and statements of fact set forth in the preamble to this ordinance are true and correct, constitute a substantive part of this ordinance, and are incorporated herein by this reference.

Section 3. Sections 8-1993 through 8-1997 of the Santa Ana Municipal Code are deleted in their entirety.

Section 4. Division 4 is hereby added to Article X (Property Maintenance) of Chapter 8 (Buildings and Structures) of the Santa Ana Municipal Code to read as follows:

Division 4. – JUST CAUSE EVICTIONS

Section 8-1993 – Citation.

This Division shall be known as the “Just Cause Eviction Ordinance.”

Section 8-1994 – Restrictions on Termination of Tenancy Without Just Cause

- (a) Notwithstanding any other law, after a tenant has continuously and lawfully occupied a residential real property for thirty (30) days, the Owner of the residential real property shall not terminate the Tenancy without just cause, which shall be stated in the written notice to terminate Tenancy.
 - 1) The Owner shall post a notice on a form prescribed by the City, providing information about the existence of this Division 4 of Chapter 8 of the Santa Ana Municipal Code, including protections related to immigration or citizenship status of tenant found under Civil Code section 1940.35 and Code of Civil Procedure section 1161.4, as may be amended. Notice must be posted in a conspicuous location on the property. The notice shall be written in the language that the Owner and tenant used to negotiate the terms of the Tenancy (e.g., Spanish, Chinese, Tagalog, Vietnamese and Korean), as well as English.
 - 2) In addition to all other notice requirements specified elsewhere in this Division, the Owner of any residential real property or mobilehome space, is required to provide written notice to tenants of their rights under this Division as follows:
 - A. The notice required by this Division must be on a form prescribed by the City and include the following information:

- i. The existence and scope of this Division 4 of Chapter 8 of the Santa Ana Municipal Code; and,
 - ii. The right to relocation assistance in limited circumstances pursuant to subsection (d)(2) herein.
 - B. The Owner must provide tenant with the notice upon serving any notice of change in terms of Tenancy.
 - C. The Owner must provide the notice on or before the commencement of all Tenancies initiated after the effective date of this Division.
- (b) For purposes of this section, “just cause” includes either of the following:
- 1) At-fault just cause, which is any of the following:
 - A. Default in the payment of rent.
 - B. A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the Code of Civil Procedure, including, but not limited to, violation of a provision of the lease after being issued a written notice to correct the violation. A “breach of a material term” shall not include:
 - i. The obligation to limit occupancy, provided that the additional occupant who joins the tenant of the residential real property thereby exceeding the limits on occupancy set forth in the lease is:
 - I. A dependent under age 18, or
 - II. A replacement tenant who moved in after an approved tenant vacated the residential real property, so long as the addition does not exceed the Uniform Housing Code.
 - i. The Owner shall have the right to approve or deny the prospective additional or replacement tenant, who is not a minor dependent child, provided that the Owner does not unreasonably withhold approval. If the Owner fails to respond to the tenant in writing with a description of the reasons for the denial of the request within a

reasonable amount of time of receipt of the tenant's written request, the tenant's request shall be deemed approved by the Owner if the lease is for a period of one (1) year or less.

- ii. A change in the terms of the Tenancy that is not the result of an express written agreement signed by both of the parties. An Owner is not required to obtain a tenant's written consent to a change in the terms of the Tenancy if the change in the terms of the Tenancy is authorized by this section, or if the Owner is required to change the terms of the Tenancy pursuant to federal, State, or local law. Nothing in this subsection shall exempt an Owner from providing legally required notice of a change in the terms of the Tenancy.
- C. Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - D. Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - E. The tenant had a written lease that terminated on or after the effective date of this Ordinance, and after a written request or demand from the Owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law.
 - F. Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the Penal Code, on or off the residential real property, that is directed at any Owner or agent of the Owner of the residential real property or members of tenant's household or other tenants of the residential real property. This at-fault, just cause provision shall apply if the Owner has, within a reasonable time, reported the criminal activity to law enforcement. Further, at-fault, just cause eviction of a tenant under this provision shall only apply to that tenant who committed the criminal activity described herein. If a tenant is acquitted or found not guilty of the charges giving rise to eviction, or if charges are not filed against the tenant within the applicable statute of limitations period, the tenant shall be

offered the right to restore the Tenancy only if the same residential real property is available.

- G. Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
 - i. Notwithstanding any contrary provision in this section, an Owner shall not take any action to terminate a Tenancy based on a tenant's sublease of the residential real property if all the following requirements are met:
 - I. The tenant requests permission from the Owner in writing to sublease the residential real property;
 - II. The tenant continues to reside in the residential real property as their primary residence;
 - III. The sublease replaces one or more departed tenants under the lease on a one-for-one basis; and
 - IV. The Owner fails to respond to the tenant in writing within a reasonable amount of time of the receipt of the tenant's written request. If the Owner fails to respond to the tenant's written request, the request shall be deemed approved by the Owner if the lease is for a period of one (1) year or less. An Owner's reasonable refusal of the tenant's written request may be based on, but is not limited to, the ground that the total number of occupants in a residential real property exceeds the maximum number of occupants as determined under Section 503(b) of the Uniform Housing Code or successor provision.
- H. The tenant's refusal to allow the Owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the Civil Code, and Sections 13113.7 and 17926.1 of the Health and Safety Code.
- I. Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.

- J. The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the Code of Civil Procedure.
- K. When the tenant fails to deliver possession of the residential real property after providing the Owner written notice as provided in Section 1946 of the Civil Code of the tenant's intention to terminate the hiring of the real property, or makes a written offer to surrender that is accepted in writing by the Owner but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the Code of Civil Procedure.

2) No-fault just cause, which includes any of the following:

- A.
 - i. Intent to occupy the residential real property by the Owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents.
 - ii. For leases entered into on or after the effective date of this Ordinance, this subsection shall apply only if the tenant agrees, in writing, to the termination, or if a provision of the lease allows the Owner to terminate the lease if the Owner, or their spouse, domestic partner, children, grandchildren, parents, or grandparents unilaterally decides to occupy the residential real property for a period of at least 24 months, as affirmed by the Owner in a written affidavit submitted to the City. Addition of a provision allowing the Owner to terminate the lease as described in this clause to a new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1).
- B. Withdrawal of the residential real property from the rental market for an anticipated period of at least 24 months, as affirmed by the Owner in a written affidavit submitted to the City.
- C.
 - i. The Owner complying with any of the following:
 - I. An order issued by a government agency or court relating to habitability that necessitates vacating the residential real property.

- II. An order issued by a government agency or court to vacate the residential real property.
- III. A local ordinance that necessitates vacating the residential real property.
- ii. If it is determined by any government agency or court that the tenant is at fault for the condition or conditions triggering the order or need to vacate under clause (i), the tenant shall not be entitled to relocation assistance as outlined in paragraph (3) of subdivision (d).

D.

- i. Intent to demolish or to substantially remodel the residential real property.
- ii.
 - I. The Owner shall provide advance notice to the tenant of the ability to reoccupy the unit upon completion of the repairs, or if requested by the tenant, the right of first refusal to any comparable vacant rental unit which has been offered at comparable rent owned by the Owner; and
 - II. In the event the Owner seeks to rent the remodeled unit within six (6) months following the completion of the remodeling work, the evicted tenant shall have the right of first refusal to reoccupy and rent the unit, unless the Owner provides a written waiver by the tenant of their right to reoccupy the premises pursuant to this subsection.
- iii. For purposes of this subparagraph, “substantially remodel” means the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency, or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, State, and local laws, that cannot be reasonably accomplished in a safe manner with the tenant in place and that requires the tenant to vacate the residential real property for at least 30 days. Cosmetic improvements alone, including painting, decorating, and minor repairs, or other work that can be performed safely without having the residential

real property vacated, do not qualify as a substantial remodel.

- (c) Before an Owner of residential real property issues a notice to terminate a Tenancy for just cause that is a curable lease violation, the Owner shall first give notice of the violation to the tenant with an opportunity to cure the violation pursuant to paragraph (3) of Section 1161 of the Code of Civil Procedure. If the violation is not cured within the time period set forth in the notice, a three-day notice to quit without an opportunity to cure may thereafter be served to terminate the Tenancy.

1) Any written notice to cease or correct must:

- A. Be dated and served upon the tenant, pursuant to at least one of the methods authorized under California Code of Civil Procedure Section 1162, as may be amended;
- B. Inform the tenant that failure to cure may result in the initiation of eviction proceedings;
- C. Inform the tenant of the right to request a reasonable accommodation;
- D. Inform the tenant of the contact number for the Eviction Defense Fund or the City if no such fund exists; and
- E. Include a specific statement of the reasons for the written notice to cease or correct with specific facts to help the tenant determine the date(s), place(s), witness(es), and circumstance(s) that support the reason(s) for the eviction.

(d)

- 1) For a Tenancy for which just cause is required to terminate the Tenancy under subdivision (a), if an Owner of residential real property issues a termination notice based on a no-fault just cause described in paragraph (2) of subdivision (b), the Owner shall, regardless of the tenant's income, at the Owner's option, do one of the following:
 - A. Assist the tenant to relocate by providing a direct payment to the tenant as described in paragraph 3; or
 - B. Waive in writing the payment of rent for the final three (3) months of the Tenancy, prior to the rent becoming due.
- 2) If an Owner issues a notice to terminate a Tenancy for no-fault just cause, the Owner shall notify the tenant of the tenant's right to

relocation assistance or rent waiver and all other rights pursuant to this section. If the Owner elects to waive the rent for the final three (3) month of the Tenancy as provided in subparagraph (B) of paragraph (1), the notice shall state the amount of rent waived and that no rent is due for the final three (3) months of the Tenancy.

3)

- A. The amount of relocation assistance or rent waiver shall be equal to three (3) months of the tenant's rent that was in effect when the Owner issued the notice to terminate the Tenancy. Any relocation assistance shall be provided within 15 calendar days of service of the notice.
- B. If a tenant fails to vacate after the expiration of the notice to terminate the Tenancy, the actual amount of any relocation assistance or rent waiver provided pursuant to this subdivision shall be recoverable as damages in an action to recover possession.
- C. The relocation assistance or rent waiver required by this section shall be credited against any other relocation assistance required by any other law.

4) An Owner's failure to strictly comply with this section shall render the notice of termination void.

(e) This section shall not apply to the following types of residential real properties or residential circumstances:

- 1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the Civil Code.
- 2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
- 3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- 4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the Owner who maintains their principal residence at the residential real property.

- 5) Single-family Owner-occupied residences, including a residence in which the Owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.
- 6) A duplex in which the Owner occupied one of the units as the Owner's principal place of residence at the beginning of the Tenancy, so long as the Owner continues in occupancy.
- 7) Housing that has been issued a certificate of occupancy within the previous 15 years.
- 8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

A. The Owner is not any of the following:

- i. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
- ii. A corporation.
- iii. A limited liability company in which at least one member is a corporation.

B.

- i. The tenants have been provided written notice that the residential property is exempt from this section using the following statement: "This property is not subject to the just cause requirements of Santa Ana Municipal Code Chapter 8, Article X, Division 4. This property meets the requirements of Santa Ana Municipal Code section 8-1994(e)(8) and the Owner is not any of the following: (1) a real estate investment trust, as defined by Section 856 of the Internal Revenue Code; (2) a corporation; or (3) a limited liability company in which at least one member is a corporation."
- ii. For a Tenancy existing before the effective date of this Ordinance, the notice required under clause (i) may, but is not required to, be provided in the rental agreement.
- iii. For any Tenancy commenced or renewed on or after the effective date of this Ordinance, the notice required under clause (i) must be provided in the rental agreement.

- iv. Addition of a provision containing the notice required under clause (i) to any new or renewed rental agreement or fixed-term lease constitutes a similar provision for the purposes of subparagraph (E) of paragraph (1) of subdivision (b).
- 9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income, as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.
- (f) An Owner of residential real property subject to this section shall provide notice to the tenant as follows:
 - 1) For any Tenancy commenced or renewed on or after the effective date of this Ordinance, as an addendum to the lease or rental agreement, or as a written notice signed by the tenant, with a copy provided to the tenant.
 - 2) For a Tenancy existing prior to the effective date of this Ordinance, by written notice to the tenant no later than thirty (30) days after the effective date of this Ordinance, or as an addendum to the lease or rental agreement.
 - 3) The notification or lease provision shall be in no less than 12-point type, and shall include the following: "The Santa Ana Municipal Code provides that after all of the tenants have continuously and lawfully occupied the property for at least thirty (30) days, an Owner must provide a statement of cause in any notice to terminate a Tenancy. See Division 4 of Article X of Chapter 8 of the Santa Ana Municipal Code for more information."
- (g) It shall be a defense to an action for possession of a rental unit under this Division if a trier of fact determines that:
 - 1) Both of the following provisions apply:
 - A. The tenant or tenant's household member is a victim of an act or acts that constitute domestic violence, elder or dependent adult abuse, sexual assault, human trafficking, or stalking if the domestic violence, elder or dependent adult abuse, sexual

assault, human trafficking, or stalking has been documented by one of the following:

- i. A temporary restraining order, emergency protective order, or protective order issued within the last 180 days pursuant to law that protects the tenant or a household member from domestic violence, elder or dependent adult abuse, sexual assault, human trafficking, or stalking; or
 - ii. The tenant or a member of their household has filed a police report within the previous 180 days alleging that they are a victim of domestic violence, elder or dependent adult abuse, sexual assault, human trafficking, or stalking.
- B. The notice to vacate is substantially based upon the act or acts constituting domestic violence, elder or dependent adult abuse, sexual assault, human trafficking, or stalking against the tenant or their household member, including, but not limited to, an action for possession based on complaints of noise, disturbances, or repeated presence of police.

2) Notwithstanding this Section, an Owner may terminate the Tenancy if:

- A. The tenant or the person protected by a court order or who filed a police report allows the person against whom the protective order has been issued or who was named in the police report as committing an act of domestic violence, elder or dependent adult abuse, sexual assault, human trafficking, or stalking, to visit the rental property; or
 - B. The Owner reasonably believes the presence of the person against whom the protective order has been issued or who was named in the police report as having committed an act of domestic violence, elder or dependent adult abuse, sexual assault, human trafficking, or stalking poses a physical threat to other tenants, guests, invitees, or to a tenant's right to quiet enjoyment and the Owner previously gave the tenant a three (3) day written notice to cease and correct this violation.
- (h) Any waiver of the rights under this section shall be void as contrary to public policy.
- (i) For the purposes of this Division, the following definitions shall apply:

- 1) "Owner" and "residential real property" have the same meaning as those terms are defined in Civil Code Section 1954.51.
- 2) "Tenancy" means the lawful occupation of residential real property or mobilehome space and includes a lease or sublease, as such may be subject to local ordinance pursuant to the terms of the Costa-Hawkins Rental Housing Act, California Civil Code section 1954.50. et seq., and the Mobilehome Residency Law, Civil Code section 798, et seq.

Section 8-1995 – Notice of Termination of Tenancy.

- (a) When terminating a Tenancy either at-fault or no-fault, an Owner must comply with all of the following:
 - 1) The Owner must serve a written notice in accordance with Civil Code sections 1946 through 1946.5, to the tenant that states that, in addition to any information required by federal or State law, the Owner will terminate the Tenancy, and that indicates at least one at-fault or no-fault just cause reason as provided in section 8-1994(b); and
 - 2) The Owner has not accepted and will not accept rent or any other consideration in return for the continued use of the residential property beyond the term of the terminated Tenancy in compliance with *Civil Code* sections 1945 through 1946.5; and
 - 3) The Owner qualifies the termination as at-fault or no-fault just cause, as specified in section 8-1994(b); and
 - 4) The Owner has submitted to the City, within five (5) days after service of the notice of termination on the tenant, a true and accurate copy of the Owner's written notice of termination, and proof of such service, signed under penalty of perjury, on the tenant. The Owner shall maintain proof of service to the City as evidence that the Owner has complied with this section.
 - 5) The Owner must provide the notice in the language that the Owner and tenant used to negotiate the terms of the Tenancy, in addition to English.

Section 8-1996 – Retaliatory Eviction and Anti-Harassment.

- (a) Retaliatory Eviction.
 - 1) If the main intent of the Owner in terminating a Tenancy or refusing to renew a Tenancy is retaliatory in nature, and if the tenant is not in default as to the payment of rent, then the Owner may not terminate

the Tenancy or refuse to renew the Tenancy or cause the tenant to quit involuntarily.

- 2) A tenant may assert retaliation affirmatively or as a defense to the Owner's action regardless of the period of time which has elapsed between the tenant's assertion or exercise of rights under this Article and the alleged act of retaliation.
- 3) Retaliation against a tenant because of the tenant's exercise of rights under this Article is prohibited. Retaliation claims may only be brought in court and may not be addressed administratively. A court may consider the protections afforded by this Article in evaluating a claim of retaliation.

(b) Anti-Harassment. No Owner, or any person, acting as a principal or agent, offering residential real property for rent, or any contractor, subcontractor or employee of the Owner shall, with respect to residential real property under any Rental Agreement or other Tenancy or estate at will, however created, do any of the following:

- 1) Interrupt, terminate, or fail to provide housing services required by Rental Agreement or by federal, State, County, or local housing, health, or safety laws, or threaten to do so, or violate or threaten to violate *Civil Code* section 789.3.
- 2) Take any of the following actions in bad faith:
 - A. Fail to perform repairs and maintenance required by Rental Agreement or by federal, State, or local laws;
 - B. Fail to exercise due diligence in completing repairs and maintenance once undertaken;
 - C. 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;
 - D. Conduct elective renovation or construction of unit for the purpose of harassing a tenant;
 - E. Refuse to acknowledge or accept receipt of a tenant's lawful rent payment as set forth in a Rental Agreement, by usual practice of the parties, or in a notice to pay rent or quit;

- F. Refuse to cash or process a rent check or other form of acceptable rent payment for over thirty (30) days after it is tendered;
 - G. Fail to maintain a current address for delivery of rent payments;
 - H. Violate a tenant's right to privacy without limitation, by requesting information regarding residence or citizenship status, protected class status, or social security number, except as required by law or in the case of a social security number, for the purpose of obtaining information for the qualifications for a Tenancy;
 - I. Release information protected by the tenant's right to privacy except as required or authorized by law; or
 - J. Request or demand an unreasonable amount of information from tenant in response to a request for reasonable accommodation.
- 3) Abuse the right of access into residential real property as established by *Civil Code* section 1954 or other applicable law. This includes entries for inspections that are not related to necessary repairs or services; entries excessive in number; entries that improperly target certain tenants or are used to collect evidence against the occupant or otherwise beyond the scope of an otherwise lawful entry; entries or demands for entry at times outside of normal business hours, unless for health and safety reasons or if the tenant agrees otherwise; entries contrary to a tenant's reasonable request to change the date or time of entry; photographing or otherwise recording portions of a rental unit that are beyond the scope of lawful entry or inspection; and misrepresenting the reasons for accessing residential real property.
 - 4) Influence or attempt to influence a tenant to vacate residential real property through fraud, misrepresentation, intimidation or coercion, which shall include threatening to report a tenant to the United States Department of Homeland Security.
 - 5) Threaten the tenant, by word or gesture, with physical harm, or abuse tenant with words, either orally or in writing, which are offensive and inherently likely to provoke an immediate violent reaction. This includes words used during in-person conversations, through social media postings or messages, or other communications.
 - 6) Violate any law which prohibits discrimination based on race, gender, sexual preference, sexual orientation, ethnic background, nationality,

religion, age, parenthood, marriage, pregnancy, disability, human immunodeficiency virus (HIV)/ acquired immune deficiency syndrome (AIDS), occupancy by a minor child, or source of income.

- 7) Take action to terminate any Tenancy including service of any notice to quit or other eviction notice or bring any action to recover possession of a rental unit based upon facts which the Owner has no reasonable cause to believe to be true or upon a legal theory which is untenable under the facts known to the Owner. No Owner shall be liable under this subsection for bringing an action to recover possession unless and until the tenant has obtained a favorable termination of that action.
- 8) Remove from the rental unit personal property, furnishings, or any other items without the prior written consent of the tenant, except when done pursuant to enforcement of a legal termination of Tenancy.
- 9) Provide false written or verbal information regarding any federal, State, County, or local Tenant protections, including mischaracterizing the nature or effect of a notice to quit or other eviction notice. False information includes, without limitation, requesting or demanding a tenant:
 - A. Sign a new Rental Agreement not in the tenant's primary language if:
 - i. Rental Agreement negotiations were conducted in the tenant's primary language;
 - ii. The existing Rental Agreement is in the tenant's primary language; or
 - iii. Owner is otherwise aware that the new Rental Agreement is not in tenant's primary language.
 - B. Enter into a rent repayment plan if the Owner states, misrepresents, suggests, or implies, that the tenant should or must do so to take advantage of tenant protection laws that do not in fact require such plans.
- 10) Offer payments to:
 - A. A tenant to vacate more than once in six (6) months, after the tenant has notified the Owner in writing that the tenant does not desire to receive further offers of payments to vacate;

B. Attempt to coerce tenant to vacate accompanied with threats or intimidation. This shall not include settlement offers in pending eviction actions made in good faith and not accompanied with threats or intimidation.

- 11) Communicate with tenant in a language other than tenant's primary language for the purpose of intimidating, confusing, deceiving or annoying tenant.
- 12) Interfere with a tenant's right to quiet use and enjoyment of a rental unit as that right is defined by law.
- 13) Commit repeated acts or omissions of such significance as to substantially interfere with or disturb the comfort, repose, 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.
- 14) Remove a housing service for the purpose of causing the tenant to vacate the residential real property. For example, taking away a parking space knowing that a tenant cannot find alternative parking and must move.
- 15) Interfere with the right of tenants to organize as tenants and engage in concerted activities with other tenants for the purpose of mutual aid and protection; provide property access to tenant organizers, advocates, or representatives working with or on behalf of tenants living at a property; convene tenant or tenant organization meetings in an appropriate space accessible to tenants under the terms of their Rental Agreement; or distribute and post literature informing other tenants of their rights and of opportunities to involve themselves in their project in common areas, including lobby areas and bulletin boards.
- 16) Threatening or intimidating a tenant based on their immigration or citizenship status or otherwise disclosing a tenant's immigration or citizenship status in violation of California Civil Code section 1940.35(a) and California Code of Civil Procedure section 1161.4, as may be amended.

Section 8-1997 – Violations.

It shall be unlawful and a misdemeanor for any person to violate or fail to comply with any provision of the ordinance. The violation of any provision of this ordinance shall be punished as provided in Santa Ana Municipal Code section 1-8.

Section 5. The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to sections 15060(c)(2), 15060(c)(3) and 15061(b)(3) of the State CEQA Guidelines because it will not result in a direct or reasonably foreseeable indirect physical change in the environment, because there is no possibility it will have a significant effect on the environment, and it is not a "project," as defined in section 15378 of the State CEQA Guidelines.

Section 6. If any section, subsection, phrase, or clause of this ordinance is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrases, or clauses be declared invalid or unconstitutional.

Section 7. The Clerk of the Council shall certify to the adoption of this ordinance and cause the same to be published in the manner prescribed by law.

Section 8. This ordinance is introduced, passed and adopted at one and the same meeting and is thereafter immediately effective. The City Council finds that this ordinance is necessary to protect the public safety, health and welfare. The reasons for the emergency are set forth in Section 1, paragraphs A-Q, inclusive of this ordinance.

ADOPTED this ____ day of _____, 2021.

Vicente Sarmiento
Mayor

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney

Ryan O. Hodge
Assistant City Attorney

AYES: Councilmembers: _____

NOES: Councilmembers: _____

ABSTAIN: Councilmembers: _____

NOT PRESENT: Councilmembers: _____

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Daisy Gomez, Clerk of the Council, do hereby attest to and certify the attached Ordinance No. NS-XXXX to be the original ordinance adopted by the City Council of the City of Santa Ana on _____.

Date: _____

Clerk of the Council
City of Santa Ana