

RESOLUTION 2022-____

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SAN PABLO TEMPORARILY PROHIBITING NO-FAULT EVICTIONS OF RESIDENTIAL TENANTS

THE CITY COUNCIL OF THE CITY OF SAN PABLO DOES ORDAIN AS FOLLOWS

SECTION 1. Findings

- A. The novel coronavirus COVID-19 is a respiratory disease which has spread across the globe, with 2,800,000 confirmed cases in California as of January 15, 2021, including 49,759 cases in Contra Costa County; and
- B. On March 4, 2020, California Governor Gavin Newsom proclaimed that a State of Emergency exists in California as a result of the threat of COVID-19; and
- C. On March 11, 2020, the World Health Organization announced that it characterized COVID-19 as a pandemic; and
- D. On March 10, 2020, the Contra Costa County Board of Supervisors and Contra Costa Health Services declared a local emergency and local public health emergency due to COVID-19; and
- E. On March 16, 2020, pursuant to Resolution No. 2020-034, City Council for the City of San Pablo declared a state of local emergency finding that conditions of extreme peril to the health and safety of persons and property have arisen within the City of San Pablo caused by COVID-19; and
- F. On March 16, 2020, Contra Costa County Health Officer issued a Shelter in Place Order, requiring all Contra Costa County Residents to stay in their homes and leave only for specified essential purposes; and
- G. On March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20, ordering, with limited exceptions, all individuals living in the state of California to stay at home or at their place of residence, until further notice; and
- H. On March 19, 2020, California Governor Gavin Newsom issued Executive Order N-33-20, ordering, with limited exceptions, all individuals living in the state of California to stay at home or at their place of residence, until further notice; and
- I. On April 21, 2020, Contra Costa County passed a temporary moratorium on evictions, including no-fault evictions; and

- J. On April 27, 2020, the City of San Pablo passed a temporary moratorium on evictions, including no-fault evictions; and
- K. On July 28, 2020, the city of San Pablo's eviction moratorium expired; and
- L. On August 31, 2020, Governor Gavin Newsom signed into law Assembly Bill 3088 (AB 3088), which included COVID-19 eviction protections for some California tenants; and
- M. A January 27, 2021 article from KQED reported that from March 19, 2020 to December 31, 2021, Contra Costa County had the second-highest amount of sheriff evictions during the COVID-19 pandemic out of the nine Bay Area Counties and had more than fifteen times the number of evictions of Alameda County; and
- N. A January 27, 2021 article by KQED reported that from March 19, 2020 to December 31, 2021, Black renters in the Bay Area were evicted at double the rate of other renters; and
- O. On February 1, 2021, SB-91 extended AB-3088's protections and created a state-wide rent relief program; and
- P. On March 2, 2021, an article on Beyond Chron discussed how landlords without any basis to evict tenants engage in "phony 'withdrawals'" from the rental market to circumvent the State's tenant protections; and
- Q. On April 15, 2021, a KQED article referred to the state's Rent Relief programs lack of accessibility to non-English speakers as a "Discriminatory Barrier" to Californians accessing rent relief; and
- R. On June 14, 2021, the Sacramento Bee released an article entitled "California tenants are facing delays in getting rent relief. Will Gavin Newsom step in; and
- S. On June 28, 2021, AB-832 extended SB-91's protections until September 30, 2021, and created new protections for tenants facing non-payment evictions that last through March 31, 2022; and
- T. A September 16, 2021 article in the Los Angeles Times stated that "Six months after it began accepting applications, the state as of this week has paid \$526 million in rent relief from its roughly \$2.6-billion share of the federal funds approved by the state Legislature, or about 20% of the money"; and

- U. On October 1, 2021, all statewide pandemic-related protections concerning no-fault evictions expired; and
- V. On October 1, 2021, statewide retaliation protections expired which previously prohibited bringing “an action for unlawful detainer based on a cause of action other than nonpayment of COVID-19 rental debt, as defined in Section 1179.02 of the Code of Civil Procedure, for the purpose of retaliating against the lessee because the lessee has a COVID-19 rental debt; and
- W. On October 1, 2021, the Contra-Costa County moratorium on no-fault evictions expired; and
- X. Starting October 1, 2021, tenants state-wide can prevent landlords from obtaining a summons for an unlawful detainer related to unpaid rent by simply applying for rent relief, even if the funds are not distributed to landlords. However, landlords can circumvent these protections do not apply if a landlord commences a “no-fault” eviction; and
- Y. State law prohibit municipalities from passing new eviction protections that relate to unpaid rent due March 1, 2020 through March 31, 2022, but does not prohibit new just cause protections unrelated to unpaid rent; and
- Z. Many San Pablo residents experiences substantial losses of income throughout the pandemic; and
- AA. The prevalence of the Omicron and Delta varriants of COVID-19 have caused increased hardship to residents of San Pablo.
- BB. Increased non-payment protections and decreased no-fault eviction protections, coupled with delays in distributing rent relief, have incentivized landlords to commence “no-fault” evictions to circumvent the strong state protections on non-payment of rent; and
- CC. Delays in distributing rent relief have increased landlords’ desires to remove tenants from rental properties for any reason. The delays in rent relief have been especially harmful for residents of Sand Pablo, of whom approximately 20% were below the poverty line before the pandemic; and

- DD. San Pablo, like other communities in the San Francisco Bay Area, was already experiencing a housing affordability crisis, which is driving homelessness and displacement of residents; and
- EE. In Contra Costa County, African American and Latino residents have been disproportionately impacted by the COVID-19 pandemic and according to the Contra Costa County Health Department have contracted COVID-19 at a higher rate than other racial and ethnic groups; and
- FF. This Ordinance will serve justice and promote racial equity for African American and Latino renters; and
- GG. The provisions in this Ordinance are consistent with or more protective than the Tenant Protection Act of 2019 as enacted by Assembly Bill 1482; and
- HH. Pursuant to California Constitution, Article XI, Section 7, California Government Code section 36937 and San Pablo Municipal Code Chapter 2.36, there is a current and immediate threat to the public health, safety and/or welfare and a need for immediate preservation of the public peace, health and safety that warrants the City to enact substantive limitations on evictions and enact a temporary moratorium on rent increases to protect the health, safety, and welfare of its residents in light of the emergency declared regarding the COVID-19 pandemic, including the need to keep residents in their homes during the time that they need to shelter-in-place. This determination is based on the facts stated in these findings, the staff reports and testimony referenced above and the staff reports dated April 20, 2020 and April 27, 2020, as well as any written or oral testimony at the City Council meetings on April 20, 2020 and April 27, 2020.

Section 2. Definitions. For purposes of this ordinance, the following words and phrases have the following meanings:

"No Fault Cause for Eviction" means any eviction for which the notice of termination of Tenancy is not based on an alleged fault of the Tenant, including but not limited to eviction notices served pursuant to California Code of Civil Procedures sections 1161(1), 1161(5), 1161c, or California Civil Code 1946, 1946.1, 1946.2(b)(2), or 1954.535. No Fault evictions also include "self-help" evictions and other extra-judicial tactics designed to encourage a tenant or tenants to vacate a rental unit.

"Owner" means any natural person, partnership, corporate or fictitious entity, acting as a lessor or sublessor, whether as a principal or through an agent, who receives or is entitled to receive Rent in exchange for the use or occupancy of any Residential or Commercial Real Property for rent.

"Residential Real Property" means any dwelling unit that is intended or used for human habitation.

“Tenancy” means the lawful occupancy of Residential Real Property by agreement on a month-to-month basis or for a fixed term in excess of 30 days

“Tenant” means the lawful occupant of residential property whether by lease, sublease, or other agreement.

Section 3. Prohibitions on No-Fault Evictions.

Through the effective period of this ordinance, and any subsequent extensions approved by the City Council, an Owner of Residential Real Property, shall not pursue a “No Fault Cause for Eviction” by engaging in acts including

- A. Serving a notice of termination of tenancy;
- B. Filing or serving an unlawful detainer lawsuit;
- C. Evicting a tenant or requiring a tenant to vacate a residential unit, including by seeking the entry of an eviction judgment or by causing or permitting a writ of possession to be executed;
- D. Taking any other action in reliance on a notice of termination of tenancy that expired during effective period of this ordinance or attempt to induce a tenant to vacate based on such a notice. Any notice of termination of tenancy served or expiring during the effective period or within sixty (60) days afterward shall be deemed invalid and insufficient to support an action in unlawful detainer during the Local Emergency or at any time afterward; or
- E. Endeavoring to recover possession of a unit or representing to a tenant that the tenant is required to move out of their unit.

SECTION 5. Retroactivity. This ordinance applies to eviction notices, and unlawful detainer actions based on eviction notices, in which the notice is served or the unlawful detainer is filed on or after _____, except to the extent a Tenant has surrendered possession of the premises, or an unlawful detainer lawsuit was finally adjudicated on or before _____. The facts justifying the retroactive application of this ordinance are set forth in Section 1.

SECTION 6. Expiration Date. The moratoriums in this ordinance shall expire as of _____, unless extended by the City Council.

SECTION 7. Remedies.

- A. The provisions of this ordinance may be asserted as an affirmative defense in an unlawful detainer action. It shall be an absolute defense to any unlawful detainer action against a Tenant that the notice of termination was served or expired, or that the complaint was filed or served during the effective period of the Moratorium or any period of retroactive effectiveness. This defense may be raised at any time, including after the expiration of this ordinance.

B. If an Owner attempts to recover possession or recovers possession of Residential Real Property or Commercial Real Property in violation of this ordinance, retaliates against a Tenant for the exercise of any rights under this ordinance, or attempts to prevent a Tenant from acquiring any rights under this ordinance, the Tenant may institute a civil proceeding for injunctive relief, money damages of not less than three times actual damages (including damages for mental or emotional distress), and whatever other relief a court deems appropriate. Damages for mental or emotional distress shall only be trebled if the trier of fact finds that the Owner acted in knowing violation of or in reckless disregard of the provisions of this ordinance. A prevailing tenant shall be entitled to reasonable attorney's fees and costs pursuant to order of the court. All remedies under this subdivision shall have a statute of limitations of three years. For purposes of injunctive relief, it shall be presumed that a tenant suffers irreparable harm though a landlord's violation of any provision of this ordinance.

SECTION 8. CEQA. This ordinance is deemed not a project under the provisions of the California Environmental Quality Act, (CEQA) pursuant to CEQA Guidelines Section 15378(b)(5): Organizational or administrative activities of governments that will not result in direct or indirect physical changes in the environment. If deemed a project, then the approval of the ordinance is deemed exempt from CEQA pursuant to the following separate and independent basis: Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the ordinance has no potential to cause a significant effect on the environment; and Section 15269(c) because adoption of this ordinance is to prevent or mitigate an emergency.

SECTION 9. Severability. If any sections, subsections, sentences, clauses, phrases or portions of this ordinance are for any reason held invalid or 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 and each section, subsection, phrase or clause of this ordinance whether or not any one or more sections, subsections, phrases or clauses may be declared invalid or unconstitutional on their face or as applied.

SECTION 10. Effective Date. Publication. This ordinance shall become effective upon adoption by not less than four-fifths vote of the San Pablo City Council as an urgency ordinance necessary for the immediate preservation of the public peace, health, and safety for the reasons set forth in Section 1. The City Clerk's Office shall publish and post the ordinance in accordance with California Government Code section 36933 to the extent feasible during the COVID-19 emergency.

ADOPTED at an adjourned regular meeting/special meeting of said City Council held on the ___ day of _____, by the following votes:

AYES:: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

ABSTAIN: COUNCILMEMBERS:

ATTEST: