

FOR COMMENT



CITY OF SANTA BARBARA
ORDINANCE COMMITTEE AGENDA REPORT

AGENDA DATE: October 20, 2020 (*Released August 21, 2020*)

TO: Ordinance Committee

FROM: City Attorney's Office

SUBJECT: **REVISED PUBLIC COMMENT DRAFT** Proposed Ordinance Requiring Just Cause For Residential Evictions And Resolution Establishing Relocation Assistance Payments For No-Fault Just Cause Evictions

RECOMMENDATION: That Ordinance Committee consider and make recommendations to Council on the following matters:

A. An Ordinance of the Council of the City of Santa Barbara Amending the Santa Barbara Municipal Code by the Addition of Chapter 26.50 Pertaining to Just Cause for Residential Evictions; and

B. A Resolution of the Council of the City of Santa Barbara Establishing Relocation Assistance Payment Amounts for No-Fault Just Cause Evictions Pursuant to Santa Barbara Municipal Code Chapter 26.50.

DISCUSSION:

Background and Next Steps

On August 18, 2020, the Ordinance Committee reached several unanimous policy determinations on Just Cause Eviction, and directed the City Attorney to prepare the necessary ordinance and resolution. The Ordinance Committee also directed that we release the package for a second public comment period between September 8th and October 2nd. This package will be released early in English on August 21, 2020. The Ordinance Committee intends to hear this matter next on Tuesday October 20, 2020 beginning at 11:00 a.m., however, interested persons should confirm the date by checking the City's website [here](#).

The Ordinance Committee also requested that staff make an outreach effort to non-English speaking rental unit owners. The agenda report (but not the ordinance or

resolution) package will be released in Spanish by September 8th. Check for updates on the City Attorney's Rental Housing Information webpage [here](#).

After the public comment period closes on October 2nd, we will summarize any new comments in a supplemental agenda report for the planned October 20, 2020 Ordinance Committee meeting.

Changes to the April 17, 2020 Public Review Draft Ordinance and Resolution

Ordinance Committee

The Ordinance Committee worked from the April 17, 2020 Public Review Draft, which can be found on the City's website for the August 11, 2020 City Council meeting [here](#).

The Ordinance Committee directed as follows:

- Establish relocation assistance in the amount of 1.5 months' rent per rental unit, regardless of unit size or tenant occupancy (Revised Resolution; add §26.50.070 D. definition of "rent");
- Eliminate additional relocation assistance for special needs tenants (Delete §26.50.070 E. Definitions; deletions from numerous sections);
- Require relocation assistance to be based upon a per unit amount, rather than per tenant amount (Revised Resolution);
- Create an incentive for owners who give a supplemental 60-day "Early Tenant Alert Notice" by allowing them to defer payment of ½ of the relocation assistance until the tenants move out (Add §26.50.070 A. Definitions; add §26.50.050 B.); and
- Clarify the definition of tenant. (Revise §26.50.070 G.)

These changes are detailed in the attached redlined ordinance and resolution.

Proposed Responses to Comments

The proposed ordinance reflects a few other changes we felt necessary or useful in light of technical comments or the Ordinance Committee's directed changes. The additional proposed changes are:

- Amend the uncodified legislative finding in Section 1.A. to read: "Safe, decent, and sanitary housing is a human necessity and right;

- Add §26.50.020 C. to state explicitly that relocation assistance or rent waivers under AB 1482 must be credited against the City's relocation assistance payment; new language to allow for elimination of the credit if state law changes;
- Remove the limiting phrase "in an action to recover possession" from the §26.50.050 C. provisions that allow owners to recover relocation assistance payments if a tenant fails to vacate a rental unit; and
- Add to Remedies §26.50.060 E. to clarify the City Attorney's enforcement authority, including recovery of costs, expenses, and attorney's fees.

These additional recommended changes are responsive to public comments and public testimony.

ATTACHMENT(S): 1. Draft Ordinance
2. Draft Resolution

PREPARED BY: Ariel Calonne, City Attorney

SUBMITTED BY: Ariel Calonne, City Attorney

APPROVED BY: Paul Casey, City Administrator

ORDINANCE NO. _____

AN ORDINANCE OF THE COUNCIL OF THE CITY OF
SANTA BARBARA AMENDING THE SANTA BARBARA
MUNICIPAL CODE BY THE ADDITION OF CHAPTER 26.50
PERTAINING TO JUST CAUSE FOR RESIDENTIAL
EVICTIONS

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

SECTION 1. Findings and Determinations. The City Council finds and determines
as follows:

- A. Safe, decent, and sanitary housing is a human necessity and right.
- B. The City Council reaffirms its General Plan Housing Element goal, first stated in 2005, of “ensuring affordable housing opportunities for all economic levels in the community, while protecting the character of established neighborhoods.” (2015 Housing Element, p.57.) The City Council also recognizes that providing a wide range of housing options is important to maintain an economically viable and socially diverse population, and to retain and house the City’s local workforce. The City’s General Plan Housing Element identifies renter-occupied housing units as comprising nearly 60% of the housing available in the City. (2015 Housing Element, p.26.) The Housing Element also documents that given local housing costs, nearly 44% of all households and almost 50% of renters are overpaying for housing. (2015 Housing Element, p.50.) Both the total percentage of City renters and the percentage of renters overpaying for housing are higher than statewide averages. Therefore, the City Council desires to establish

reasonable protections for City residents living in rental housing that recognize the important role that rental housing plays in the provision of affordable housing.

C. The Tenant Protection Act of 2019 (Stats. 2019, ch. 597; "AB 1482") established statewide just cause eviction and relocation assistance protections for residential tenants, but also authorized cities to enact more protective local regulations which supersede state law.

D. The regulations enacted by this Ordinance are more protective than the provisions of Civil Code Section 1946.2. The City Council makes this binding finding because this Ordinance provides higher relocation assistance amounts than state law. In addition, this Ordinance provides additional tenant protections by making permanent the temporary protections provided under AB 1482, which would otherwise sunset in 2030.

SECTION 2. Title 26 of the Santa Barbara Municipal Code is amended by the addition of Chapter 26.50 to read as follows:

**Chapter 26.50
Just Cause for Residential Evictions**

Section 26.50.010 Just Cause for Residential Evictions.

Section 26.50.020 Relocation Assistance Payments for No-Fault Just Cause Evictions.

Section 26.50.030 Applicability.

Section 26.50.040 Just Cause Eviction Notice Requirements.

Section 26.50.050 Relocation Assistance Payment Requirements.

Section 26.50.060 Remedies.

Section 26.50.070 Definitions.

26.50.010 Just Cause for Residential Evictions.

A. The owner of a rental unit shall not terminate the tenancy of a qualified tenant without just cause stated in full in the termination notice.

B. Just cause includes at-fault just cause or no-fault just cause as defined in Section 26.50.070.

26.50.020 Relocation Assistance Payments for No-Fault Just Cause Evictions.

A. The owner of a rental unit who issues a termination notice based upon no-fault just cause shall make a relocation assistance payment to each qualified tenant ~~and each special needs tenant~~ in an amount established by resolution of the City Council, or one month's rent plus one dollar, whichever is greater.

B. When more than one qualified tenant occupies a rental unit, the owner shall divide the relocation assistance payment equally among the qualified tenants and make the divided relocation assistance payment to each qualified tenant.

C. Any relocation assistance or rent waiver required by state law shall be credited against the relocation assistance payment required by this Chapter, but only to the extent such credit is required by state law.

26.50.030 Applicability.

This Chapter applies to all rental units except:

A. Transient and tourist hotel occupancy as defined in Civil Code Section 1940(b).

B. 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.

C. Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.

D. Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the rental unit.

E. 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.

F. 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.

G. Housing that has been issued a certificate of occupancy within the previous 15 years.

H. A rental unit that is alienable separate from the title to any other dwelling unit, provided that both of the following apply:

1. The owner is not any of the following:

a. A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.

b. A corporation.

c. A limited liability company in which at least one member is a corporation.

2. a. 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 rent limits imposed by Section 1947.12 of the Civil Code and is not subject to the just cause requirements of Section 1946.2 of the Civil Code. This property meets the requirements of Sections 1947.12 (d)(5) and 1946.2 (e)(8) of the Civil Code 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."

b. For a tenancy existing before the effective date of this Chapter, the notice required under subparagraph a. may, but is not required to, be provided in the rental agreement.

c. For any tenancy commenced or renewed on or after the effective date of this Chapter, the notice required under subparagraph a. must be provided in the rental agreement.

d. Addition of a provision containing the notice required under subparagraph a. to any new or renewed rental agreement or fixed-term lease constitutes similar other terms for the purposes of Section 26.50.070 A.1.e.

I. 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.

26.50.040 Just Cause Eviction Notice Requirements.

A. The written notice to terminate tenancy shall state in full the facts and circumstances constituting the at-fault just cause or no-fault just cause for termination.

B. A written notice to terminate tenancy based upon no-fault just cause shall be accompanied by a supplemental notice informing ~~the~~ each qualified tenant of their right to and the amount of a relocation assistance payment required by this Chapter.

C. Before the owner of a rental unit 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~~ each qualified 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.

26.50.050 Relocation Assistance Payment Requirements.

A. The owner of a rental unit who issues a termination notice based upon no-fault just cause shall make the relocation assistance payment required by this Chapter to ~~the~~ each qualified tenant ~~or special needs tenant~~ within 15 calendar days after service of the notice.

A.B. The owner of a rental unit who issues an early tenant alert notice may elect to make one-half of the relocation assistance payment required by this Chapter to each qualified tenant within 15 days after service of the Section 26.50.050 A. notice, and the remaining one-half of the relocation assistance payment to each qualified tenant no later than the time that qualified tenant surrenders possession of the rental unit.

B.C. If a qualified tenant ~~or special needs tenant~~ fails to vacate after the expiration of the notice to terminate the tenancy, the actual amount of any relocation assistance paid to the qualified tenant shall be recoverable as damages from that qualified tenant ~~in an action to recover possession~~.

~~C.D.~~ A qualified tenant is not entitled to relocation assistance if any government agency or court determines that the tenant is at fault for the condition or conditions triggering an eviction order or need to vacate under Section 26.50.070 ~~AB~~. 2. c.

26.50.060 Remedies.

A. Failure to provide each of the notices required by this Chapter shall be a defense to any unlawful detainer action.

B. Failure to include all required information in the notices required by this Chapter shall be a defense to any unlawful detainer action.

C. Failure to make a relocation assistance payment in a timely manner shall be a defense to any unlawful detainer action.

D. Any violation of this Chapter shall entitle the aggrieved tenant to actual damages according to proof and costs and attorney's fees.

E. The City Attorney is authorized to enforce this Chapter through administrative, civil, or criminal action. The City Attorney is further authorized to bring actions for injunctive relief on behalf of the city. The City Attorney shall seek recovery of costs, expenses, and attorney's fees as allowed by law.

26.50.070 Definitions.

As used in this Chapter, the following terms have the meanings set forth in this ~~section~~Section:

A. Early Tenant Alert Notice means an additional written notice of no-fault just cause termination of a tenancy provided at least 60 days before the notice of termination required by Section 26.50.040 A.

B. Just cause means at-fault just cause and no-fault just cause, as follows:

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.
 - 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 Chapter, and after a written offer from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of the same duration at the same rent and with similar other terms, provided that those terms do not violate this Chapter or any other provision of law.
 - f. Criminal activity by the tenant on the rental unit, 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 rental unit, that is directed at any owner or agent of the owner of the rental unit; provided that criminal activity or criminal threat

directed at a tenant who is a victim of domestic violence shall not be the basis for at-fault or no-fault just cause eviction of the tenant who is a victim of domestic violence.

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.

h. The tenant's refusal to allow the owner to enter the rental unit 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 rental unit after providing the owner written notice as provided in Civil Code Section 1946 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 landlord, 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 is any of the following:

a. Intent to occupy the rental unit by the owner or their spouse, domestic partner, children, grandchildren, parents, or grandparents if a provision of the lease allows the owner to terminate the lease when the owner, or their spouse, domestic

partner, children, grandchildren, parents, or grandparents, unilaterally decides to occupy the rental unit.

b. Withdrawal of the rental unit from the rental market.

c. 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 rental unit.

ii. An order issued by a government agency or court to vacate the rental unit.

iii. A local ordinance that necessitates vacating the rental unit.

d. Intent to totally demolish or to substantially remodel the rental unit.

B. **Owner** means owner as defined in Civil Code Section 1954.51.

C. **Qualified tenant** means a tenant who has continuously and lawfully occupied a rental unit for 12 months.

D. **Rent** means the total consideration charged or received by an owner in exchange for the use or occupancy of a rental unit.

DE. **Rental unit** means any unit in any real property, regardless of zoning status, including the land appurtenant thereto, that is rented or available for rent for residential use or occupancy (regardless of whether the unit is also used for other

purposes), together with all housing services connected with use or occupancy of such property, such as common areas and recreational facilities held out for use by the tenant.

~~E. **Special needs tenant** means a qualified tenant: i) who is 62 years of age or older, or ii) who is disabled within the meaning of Section 295.5 of the Vehicle Code, or iii) who is a parent or legal guardian residing with their child or children in the rental unit.~~

F. **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 rental unit for at least 30 days. Substantial remodeling does not include cosmetic improvements, including painting and decorating, minor repairs, routine maintenance, or other work that can be performed safely without having the rental unit vacated.

G. **Tenant** means any renter, tenant, subtenant, lessee, or sublessee, or person entitled by written or oral agreement to occupy a rental unit, ~~or any other person entitled to the use or occupancy of such rental unit,~~ or any successor of any of the foregoing.

SECTION 3. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part hereof is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this Chapter or any part hereof. The City Council declares that it would have passed each section, subsection, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one (1) or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional.

SECTION 4. The City Council finds that, on the basis of the whole record and exercising its independent judgment, this Ordinance is not subject to environmental review pursuant to the State Guidelines for Implementation of the California Environmental Quality Act Sections 15060(c)(3) pertaining to activities that will not result in a direct or reasonably foreseeable indirect change to the environment and that are not defined as a project under Section 15378. This Ordinance has no potential for resulting in physical change to the environment directly or indirectly in that it merely regulates existing physical development.

RESOLUTION NO.

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA ESTABLISHING RELOCATION ASSISTANCE PAYMENT AMOUNTS FOR NO-FAULT JUST CAUSE EVICTIONS PURSUANT TO SANTA BARBARA MUNICIPAL CODE CHAPTER 26.50

WHEREAS, the Tenant Protection Act of 2019 (Stats. 2019, ch. 597; “AB 1482”) establishes statewide just cause eviction and relocation assistance protections for residential tenants, but also authorizes cities to enact more protective local regulations that supersede state law; and

WHEREAS, the City Council has adopted Chapter 26.50 of the Santa Barbara Municipal Code to enact more protective local regulations which include, among other things, higher relocation assistance amounts for the no-fault eviction of a tenant than are provided under state law; and

WHEREAS, the City retained Keyser Marston Associates, Inc. to prepare a study to determine the appropriate amounts of relocation assistance; and

WHEREAS, the Keyser Marston Associates, Inc. study establishes relocation assistance amounts that are reasonably related to the direct financial impact upon tenants caused by no-fault evictions;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT:

SECTION 1. The City Council accepts and adopts the City of Santa Barbara Relocation Assistance Study dated April 8, 2020, prepared Keyser Marston Associates, Inc., on file with the City Clerk.

SECTION 2. Based on the Relocation Assistance Study, the City Council finds and determines that the relocation assistance amounts established by this resolution are reasonably related to the direct financial impact upon tenants caused by no-fault evictions.

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SECTION 3. The following relocation payment assistance amounts are established for no-fault evictions pursuant to Santa Barbara Municipal Code Section 26.50.020.

Relocation Assistance Payments				
	Studio	1-Bedroom	2-Bedroom	3-Bedroom or larger
Qualified Tenant	\$2,365	\$2,700	\$4,583	\$7,125
Special Needs Tenant	\$2,571	\$2,921	\$5,468	\$8,460

<u>Relocation Assistance Payments</u>
<u>All Rental Unit Sizes</u>
<u>An amount equal to 1.5 months of the rent that was in effect when the owner issued the notice to terminate the tenancy</u>

~~SECTION 4. The relocation assistance amounts shall be automatically adjusted annually on July 1, 2021 and July 1 of each subsequent year by the amount of increase or decrease in the in the annual average of the Consumer Price Index (All Urban Consumers, All Items-Los Angeles-Long Beach-Anaheim) for the preceding twelve months.~~