

ORDINANCE NO. 1992

**AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADDING
CHAPTER 10.111 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED
“RELOCATION ASSISTANCE IN OPPORTUNITY ZONES”**

Section 1. Findings.

WHEREAS, the Marin Housing Authority estimates there is a shortage of 9,465 affordable rental homes to accommodate low-income renters in Marin County; and

WHEREAS, the Marin Housing Authority estimates that rents in Marin County have been steadily increasing since 2009; and

WHEREAS, increasing rents combined with a housing shortage places substantial pressure on residents of the City of San Rafael who rent housing; and

WHEREAS, there are 23,929ⁱ residential units in San Rafael. Of those, approximately forty-eight percent (48%) are owner occupied and fifty percent (50%) are renter occupied; and

WHEREAS, a portion of San Rafael is located in U.S. Census Tract 1122.01, which is the sole U.S. Census Tract designated a “Qualified Opportunity Zone” by the 2017 Tax Cuts and Jobs Act (the “Act”), within Marin County; and

WHEREAS, in San Rafael’s Qualified Opportunity Zone, there are approximately 1,813ⁱⁱ residential units. Of those, eight percent (8%) are owner occupied and ninety-two percent (92%) are tenant occupied; and

WHEREAS, the estimated median gross monthly income of residents living in Census Tract 1121.01 is \$3,533ⁱⁱⁱ; and

WHEREAS, Census Tract 1122.01 has been identified as a High Segregation and Poverty opportunity category (<https://belonging.berkeley.edu/2021-tcac-opportunity-map>); and

WHEREAS, the Healthy Places Index (HPI), developed by the Public Health Alliance of Southern California, tracks 25 separate indicators of community health and wellbeing, including five indicators related to housing; and

WHEREAS, according to the HPI, Census Tract 1122.01 is in the bottom 10th percentile of census tracts statewide in terms of renters who spend more than 50% of their income on housing costs, while the City of San Rafael as a whole is in the 29th percentile; and

WHEREAS, Qualified Opportunity Zones are designed to spur economic development in distressed communities throughout the country and U.S. possessions by providing tax benefits to investors who invest eligible capital into opportunity zones; and

WHEREAS, in order for taxpayers to defer tax on eligible capital gains under the Act, taxpayers must own and substantially improve property in a Qualified Opportunity Zone; and

WHEREAS, sale of residential properties in San Rafael's Qualified Opportunity Zone and substantial improvements to said properties are likely to result in displacement of residential tenants in the Canal neighborhood due to no fault terminations; and

WHEREAS, the residents living in San Rafael's Qualified Opportunity Zone therefore face a high risk of displacement which displacement could have severe health, safety and economic impacts on these residents; and

WHEREAS, tenants who do not have adequate funds to move and who are forced to move pursuant to a no-fault eviction notice face displacement and great hardship; and

WHEREAS, tenants who find acceptable new housing commonly find themselves required to pay substantial costs related to new housing including, but not limited to, move-in costs to a new home, moving costs, new utility hook-ups, payments for temporary housing, lost work time seeking housing, and increased rent; and

WHEREAS, tenants who find acceptable new housing commonly find themselves required to pay substantial move-in costs of first and last month's rent plus a security deposit equal to one month's rent; and

WHEREAS, tenants evicted in San Rafael are forced to incur substantial costs related to new housing including, but not limited to, move-in costs to a new home, moving costs, new utility hook-ups, payments for temporary housing, and lost work time seeking housing;

WHEREAS, mothers who are evicted experience higher levels of material hardship and parenting stress and are more likely to suffer from depression and to report their health and that of their children as being poor, and the impacts of eviction can endure for years with research showing in some families at least two years after their eviction mothers experienced significantly higher rates of material hardship and depression than their peers^{iv}; and

WHEREAS, evictions of long-term residents can lead to significant decreased credit scores for individuals ages 65 years or older compared to their counterparts who are able to stay, with an average credit score 14.6 points lower^v; and

WHEREAS, by 2035, the number of older households with a disability nationwide will increase by 76 percent to reach 31.2 million, placing tremendous pressure on the supply of ADA-compliant rental housing, making it increasingly difficult for renters with disabilities to find suitable housing after a no-fault eviction^{vi}; and

WHEREAS, numerous California jurisdictions have recognized the impacts of these no-fault evictions are particularly significant on elderly, disabled, and low-income tenants and tenants with minor children, justifying additional payments for households with these tenants; and

WHEREAS, this action is exempt from the California Environmental Quality Act ("CEQA") pursuant to, but not limited to, the following CEQA Guidelines: § 15061 (b)(3) (no significant environmental impact), and § 15183 (consistent with the general plan and zoning); and

WHEREAS, this Ordinance is expressly authorized by State law because the Ordinance provides for higher relocation assistance amounts than section 1946.2 of the California Civil Code, which was adopted pursuant to the Tenant Protection Act of 2019 and is therefore more protective than the Act, and because this Ordinance provides tenant protections that are neither prohibited by nor established by other provisions of applicable law;

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SAN RAFAEL DOES ORDAIN AS FOLLOWS:

Section 2: Addition of Chapter 10.111 to the San Rafael Municipal Code.

Title 10 of the San Rafael Municipal Code, entitled "Businesses, Professions, Occupations, Industries and Trades" is hereby amended by adding a new Chapter, 10.111 entitled "Relocation Assistance in Opportunity Zones" to read in its entirety as follows:

10.111.010 Purpose and Intent

It is the purpose and intent of this chapter to help mitigate the adverse health, safety and economic impacts experienced by residents of rental housing who are displaced from their residences due to no fault terminations of their tenancies. This chapter requires a property owner to mitigate the impact on these residents by providing relocation assistance benefits to residents located within U.S. Census Tract 1122.01, which has been designated a "Qualified Opportunity Zone" by the 2017 Tax Cuts and Jobs Act.

10.111.020. Definitions

For purposes of this chapter, unless the context clearly requires a different meaning, the words, terms, and phrases set forth in this section shall either have the meanings set forth in section 10.105.030 of this Code, or below, as applicable:

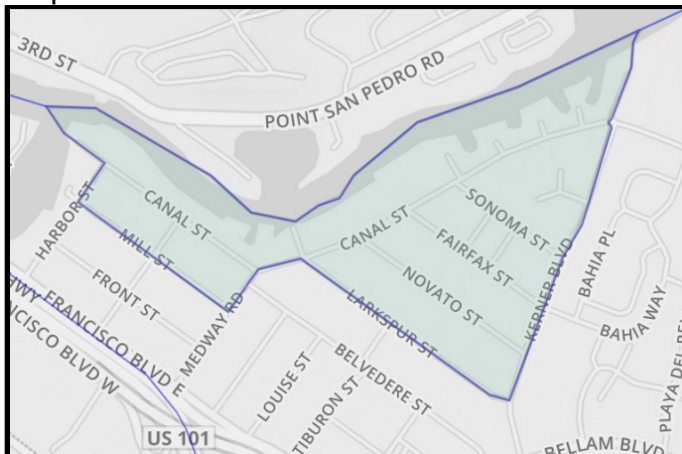
- A. "Disabled" means a person with a disability, as defined in Section 12955.3 of the Government Code.
- B. "Elderly" means a person sixty-two (62) years or older.
- C. "Lease" means any contract between a tenant household and a landlord or property owner for a specified time, in return for a periodic payment.
- D. "Minor child(ren)" means a person(s) who is eighteen (18) years or younger at the time the Notice of Relocation Assistance is provided to the tenant household.
- E. "No fault termination" shall have the meaning set forth in section 10.105.040(C) of this Code.
- F. "Relocation assistance" means the payment issued to a tenant household which household will be evicted from a dwelling unit pursuant to a "no fault termination."
- G. "Tenancy" means the use or occupancy of a dwelling unit by a tenant.

10.111.030 Eligibility for Relocation Assistance

A. A tenant household shall be eligible for Relocation Assistance pursuant to this Chapter if:

- (1) The tenant household has continually occupied a dwelling unit for a period of thirty (30) days or more; and
- (2) The tenant household occupies a dwelling unit located within U.S. Census Tract 1122.01, and shown in the shaded areas of Map 10.111.030.

Map 10.111.030



B. A tenant household shall not be eligible to receive relocation assistance pursuant to this Chapter if the tenant household is subject to a “for cause termination” pursuant to subsection (B) of section 10.105.040 of this Code.

C. A tenant household that is eligible to receive relocation assistance pursuant to this Chapter shall not be eligible to receive relocation assistance pursuant to the provisions of section 14.16.279 of this Code.

10.111.040 Requirement to Provide Relocation Assistance

If the termination of a tenancy subject to this Chapter qualifies as a “no fault termination” pursuant to subsection (C) of section 10.105.040 of this Code, the landlord of the dwelling unit subject to the no fault termination shall, regardless of the tenant household’s income, provide relocation assistance in accordance with the provisions of this Chapter.

10.111.050 Relocation Assistance Calculation and Procedures

Relocation assistance shall be subject to the following:

A. Calculation of Relocation Assistance

A tenant household that is eligible to receive relocation assistance pursuant to this Chapter shall be entitled to a relocation assistance payment equal to the sum of the following:

(1) First and Last Month’s Rent. Payment for first and last month’s rent shall be equal to two times the greater of (1) the rent established by a lease between the landlord and the tenant household, or (2) the current Fair Market Rent published annually by the U.S. Department of Housing and Urban Development for the San Francisco, CA HUD Metro FMR Area, corresponding to the number of bedrooms in the subject dwelling unit; and

(2) Security Deposit. Payment for a security deposit shall be established by City Council Resolution and based upon the number of bedrooms in the property; and

(3) Moving Expenses. Payment for moving expenses shall be established by City Council Resolution and based on the number of bedrooms in the property; and

(4) Per Diem. A per diem payment for each day remaining in the calendar month in which the tenancy is terminated. The per diem amount shall be established by City Council Resolution, to compensate for costs such as short-term rental accommodations, meals, and other related costs, and based upon tenant household size; and

(5) Supplemental Payments. Tenant households that qualify for the Supplemental Payment Categories set forth in this subsection shall receive up to one supplemental payment. Supplemental payments shall be equal to one month’s rent calculated using the greater of (1) the monthly rent established by a lease between the landlord and the tenant household; or (2) the current Fair Market Rent published

annually by the U.S. Department of Housing and Urban Development for the San Francisco, CA HUD Metro FMR Area, corresponding to the number of bedrooms in the subject dwelling unit.

Supplemental Payment Categories include:

- a. Tenant households with Minor Child(ren). Households with at least one minor child(ren).
- b. Tenant households with Elderly Individual. Households with at least one elderly individual.
- c. Tenant households with Disabled Individual. Households with at least one disabled individual.

B. Notice of Relocation Assistance

(1) Not less than sixty (60) days before a tenancy is terminated pursuant to subsection (C) of section 10.105.040, the landlord shall provide a Notice of Relocation Assistance to the tenant household whose tenancy will be terminated.

(2) The Notice of Relocation Assistance may be provided along with or incorporated within the Notice of Termination required pursuant to section 10.105.050.

(3) The Notice of Relocation Assistance shall be in the same language and/or dialect as the rental agreement was negotiated.

(4) The Notice of Relocation Assistance shall contain the following:

a. the amount of the relocation assistance payment itemized in the manner set forth in subsections (1) through (4) of subsection (A) of section 10.111.050 regarding calculation of relocation assistance;

b. a statement informing the tenant household that it may submit evidence of eligibility for a Supplemental Payment pursuant to subsection (5) of subsection (A) of section 10.111.050 of this Code within twenty-one (21) days of receipt of the Notice of Relocation Assistance.

c. the date by which the relocation assistance payment will be delivered to the tenant household; and

d. a copy of San Rafael Municipal Code Chapter 10.111.

C. Certification of Relocation Assistance and Administrative Fee

Within ten (10) days of issuance of a Notice of Relocation Assistance pursuant to subsection (B) of section 10.111.050 of this Chapter, the landlord shall submit to the City's Community Development Department, a completed Certification of Relocation Assistance on a form approved by the City along with an administrative fee in an amount set forth by separate resolution of the City Council, which fee shall offset the costs in administering this Chapter.

The Certification of Relocation Assistance shall include the following information:

- (1) The address of each dwelling unit in the rental property that is subject to the no-fault termination;
- (2) The monthly rent for each of those dwelling units; and
- (3) The name of every person the landlord considers to be a resident under an oral lease, written lease, or other rental agreement.

D. Payment of Relocation Assistance

(1) Not less than thirty (30) days before the final date of the terminated tenancy, the landlord shall deliver, via certified mail or personal service, to the address of the terminated tenancy, the relocation assistance required by this Chapter.

(2) The relocation assistance payment shall be equal to the sum of the amounts required by subsections (1) through (4) of subsection (A) of section 10.111.050, and shall include the amount set forth in subsection (5) of subsection (A) of section 10.111.050 if the tenant household has provided timely evidence of eligibility for a supplemental payment. The owner must keep all such evidence and documents submitted by the tenant household confidential.

(3) Relocation assistance shall be paid per tenant household, not per tenant.

(4) Relocation assistance shall be paid via check or cashier's check made out to the person(s) who are named on the lease for the terminated tenancy.

E. Verification of Payment of Relocation Assistance.

Before issuance of demolition permits, building permits or other City permits and/or entitlements that would result in No Fault Termination subject to Chapter 10.105 of this Code, the City must receive verification from the landlord of the property seeking said permits and/or entitlements that all relocation assistance required pursuant to this Chapter has been paid. This verification shall be submitted in a form approved by the Community Development Department.

10.111.060 Notices.

Whenever any notice or other communication is required by this Chapter to be served on, provided, given or delivered to, or filed with, any person, that notice or communication may be communicated by personal delivery, certified mail, first class mail, e-mail, or any other similar method that will provide a written record of the notice or communication.

10.111.080 Failure to Comply – Private Right of Action.

Any attempt to recover possession of a rental unit in violation of this Chapter shall render a landlord liable to the tenant for damages permitted by law in a civil action for wrongful eviction. A tenant may also seek injunctive relief and money damages for wrongful eviction and/or failure to pay relocation assistance, including failure to pay a supplemental payment where the tenant household has timely submitted evidence of

eligibility for a supplemental payment pursuant to subsection (5) of subsection (A) of section 10.111.050 of this Code. The prevailing party in an action for wrongful eviction shall recover costs and reasonable attorneys' fees.

10.111.090 Expiration on Termination of Federal Opportunity Zone Designation

This Chapter is intended to provide assistance to renters experiencing higher risks of displacement and renters affected by the Opportunity Zone designation authorized by the 2017 Tax Cuts and Jobs Act. At such time as the Opportunity Zone designation is lifted from Census Tract 1122.01 or the Act is amended so as to not provide its stated tax benefits to investments within Census Tract 1122.01, the provisions of this Chapter shall expire and become null and void. The City Council shall repeal this Chapter should it expire by the terms of this section.

Section 3. Severability. 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 and each section, subsection, phrase or clause thereof irrespective of the fact that any one or more sections, subsections, phrase or clauses be declared unconstitutional on their face or as applied.

Section 4. Compliance with CEQA. The City Council hereby finds that the action to adopt this Ordinance is exempt from the provisions of the California Environmental Quality Act (CEQA), pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility the adoption of this Ordinance may have a significant effect on the environment, and pursuant to CEQA Guidelines section 15183 (consistent with the general plan and zoning).

Section 5. Publication; Effective Date. A summary of this Ordinance shall be published and a certified copy of the full text of this Ordinance shall be posted in the office of the City Clerk at least five (5) days prior to the Council meeting at which it is adopted.

This Ordinance shall be in full force and effect thirty (30) days after its final passage, and the summary of this Ordinance shall be published within fifteen (15) days after the adoption, together with the names of the Councilmembers voting for or against same, in the Marin Independent Journal, a newspaper of general circulation published and circulated in the City of San Rafael, County of Marin, State of California.

Within fifteen (15) days after adoption, the City Clerk shall also post in the office of the City Clerk, a certified copy of the full text of this Ordinance along with the names of those Councilmembers voting for and against the Ordinance.



Kate Colin, Mayor

ATTEST:



LINDSAY LARA, City Clerk

The foregoing Ordinance No. 1992 was read and introduced at a regular meeting of the City Council of the City of San Rafael on Monday, the 1st day of March 2021, and was ordered passed to print by the following vote, to wit:

AYES: Councilmembers: Bushey, Hill, Kertz, Llorens Gulati & Mayor Kate

NOES: Councilmembers: None

ABSENT: Councilmembers: None

and will come up for adoption as an Ordinance of the City of San Rafael at a Regular Meeting of the Council to be held on the 15th day of March, 2021.



LINDSAY LARA, City Clerk

ⁱ Total Housing Units (+/-235 Margin of Error)(Occupied - +/-542 Margin of Error)

ⁱⁱ Total Housing Units (+/-117 Margin of Error)

ⁱⁱⁱ ACS 2018 5-year

^{iv} Desmond, Matthew & Kimbro, Rachel. (2015). Eviction's Fallout: Housing, Hardship, and Health. *Social Forces*. 94. 10.1093/sf/sov044.

^v Ding, L., & Hwang, J. (2016). The Consequences of Gentrification: A Focus on Residents' Financial Health in Philadelphia. *Cityscape*, 18(3), 27-56.

^{vi} Joint Center for Housing Studies of Harvard University. (2016). Projections and Implications for Housing a Growing Population: Older Households 2015-2035. <https://www.jchs.harvard.edu/research-areas/reports/projections-and-implications-housing-growing-population-older-households-2015>

SUMMARY OF ORDINANCE NO. 1992

AN ORDINANCE OF THE CITY OF SAN RAFAEL CITY COUNCIL ADDING CHAPTER 10.111 TO THE SAN RAFAEL MUNICIPAL CODE, ENTITLED “RELOCATION ASSISTANCE IN OPPORTUNITY ZONES”

This Summary concerns a proposed ordinance of the City Council of the City of San Rafael, designated as Ordinance No. 1982, which will amend the San Rafael Municipal Code to add a new Chapter 10.111 concerning relocation assistance for certain evicted tenants in U.S. Census Tract 1122.01, which has been designated by federal law as an “Opportunity Zone”. Ordinance No. 1982 is scheduled for adoption by the San Rafael City Council at its regular meeting of March 15, 2021. The City Clerk has been directed to publish this Summary pursuant to City Charter and California Government Code section 36933(c)(1).

SUMMARY OF AMENDMENT TO MUNICIPAL CODE

A portion of the Canal neighborhood in San Rafael is located in U.S. Census Tract 1122.01, which is the sole U.S. Census Tract within Marin County that has been designated as a “Qualified Opportunity Zone” by the federal 2017 Tax Cuts and Jobs Act. Qualified Opportunity Zones are designed to spur economic development in distressed communities by providing tax benefits to investors who invest eligible capital into opportunity zones. In order for taxpayers to defer tax on eligible capital gains under the Act, taxpayers must own and substantially improve property in a Qualified Opportunity Zone.

In this Qualified Opportunity Zone, there are approximately 1,813 residential units, the vast majority of which are rental units. Data shows that the estimated median gross monthly income of residents living San Rafael’s Qualified Opportunity Zone is \$3,533 and that this Census Tract is in the bottom 10th percentile of census tracts statewide in terms of renters who spend more than 50% of their income on housing costs, while the City of San Rafael as a whole is in the 29th percentile. Due to the tax benefits of investing in this Qualified Opportunity Zone, it is anticipated that sales of residential properties and substantial improvements to those properties will occur, and are likely to result in displacement of residential tenants, who are at risk of adverse health, safety and economic impacts.

Based on these and other data and findings, the San Rafael City Council has adopted San Rafael Municipal Code Chapter 10.111 which imposes certain requirements on landlords to provide relocation assistance payments to tenant households in the Qualified Opportunity Zone who are displaced by no-fault evictions. The payments are intended to provide displaced tenant households with monetary assistance towards costs they will incur in relocating to a new rental, such as first and last month’s rent, security deposit, and moving expenses.

Copies of Ordinance No. 1982 will be available for public review as of Thursday, March 11, 2021 the City’s website: <https://www.cityofsanrafael.org>. You may also

contact Alicia Giudice, Planning Manager, at (415) 485-3092 or
Alicia.giudice@cityofsanrafael.org for information.

LINDSAY LARA
San Rafael City Clerk
Dated: