

City Council Meeting: September 8, 2020

Santa Monica, California

ORDINANCE NUMBER 2650 (CCS)

(City Council Series)

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF  
SANTA MONICA ADDING SANTA MONICA MUNICIPAL CODE CHAPTER 6.22:  
RESIDENTIAL LEASING REQUIREMENTS

WHEREAS, the State is experiencing a severe housing crisis that is driving the cost of living beyond the reach of an increasing share of the population; and

WHEREAS, the City has long been committed to ensuring that Santa Monica is an inclusive and affordable community despite mounting market pressures; and

WHEREAS, through discussions that occurred as part of the adoption process for the City's major policy documents, including the Land Use and Circulation Element ("LUCE") of the City's General Plan in 2010, the current Housing Element in 2013, the City's new Zoning Ordinance, Chapters 9.01 through 9.52 of Article 9 of the Santa Monica Municipal Code ("Zoning Ordinance") in 2015, and the Downtown Community Plan in 2017, and recent amendments to the City's Affordable Housing Production Program, the City has identified the need for a variety of housing types to serve all household sizes at all income levels; and

WHEREAS, with approximately 75% of its residents in rental housing, the City has maintained a long-standing commitment to protecting tenants and existing rental housing stock, particularly in rent-controlled housing; and

WHEREAS, within the context of the Statewide housing shortage and associated impacts on housing affordability, the City has an interest in ensuring that its rental housing stock is retained for permanent housing to the greatest extent possible; and

WHEREAS, on August 14, 2018, in light of rapidly-intensifying market pressures on local rents, Council directed staff to study what constitutes “corporate housing” and “short-term rentals” for purposes of the Santa Monica Municipal Code; and

WHEREAS, on December 18, 2018, the City Council conducted a study session on corporate housing in response to growing concerns about the erosion of the City’s supply of affordable housing due to market pressures, expressing particular concern about adverse impacts of renovation of rent-controlled housing and construction of new housing that appeared intended to facilitate temporary occupancy; and

WHEREAS, as a result of the December 18, 2018 study session, Council directed staff to bring back options for protecting rent-controlled units, amending the corporate housing definition, revising the Zoning Ordinance to address new housing models, and enhancing enforcement measures to maximize the use of the City’s housing stock for permanent housing; and

WHEREAS, on September 10, 2019, the City Council conducted a study session on policy options for existing housing stock and new housing models, smaller units, co-living models and transitory-based housing models; and

WHEREAS, at the conclusion of the September 10, 2019 study session, Council directed staff to examine amendments to the Municipal Code to clarify and update regulations for multiple-unit dwellings and related uses, to possibly allow for new housing models and housing for persons who wish to reside in the City temporarily in certain areas

in the City, but to prioritize protections for use as permanent housing of rent-controlled units and the City's existing housing stock in residential districts; and

WHEREAS, temporary housing, with lease terms of more than thirty days but less than a year, typically has a higher monthly price point than rental housing subject to annual leases, thereby increasing market pressure on rents; and

WHEREAS, increased demand for rental housing in the City, combined with rising housing costs across the City and the State, have made it increasingly difficult for those who live and work in Santa Monica to find rental housing that is available, affordable, and meets their needs; and

WHEREAS, the City Council finds and declares that tenants are entitled to contractual relationships with landlords that offer some assurances of stability and minimize frequent displacements of tenants in a rental housing market affording tenants few and increasingly expensive options; and

WHEREAS, the City Council further finds and declares that, as a result, the City's rental housing stock should, to the extent possible, be preserved for use as long-term permanent housing.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SANTA MONICA DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Santa Monica Municipal Code Chapter 6.22 is hereby added to read as follows:

**Chapter 6.22 Residential Leasing Requirements**

**6.22.010 Purpose.**

Santa Monica has an extensive history of protecting existing housing stock and encouraging the creation of new housing opportunities to ensure an inclusive and affordable community despite mounting market pressures. Increased demand for rental housing in the City, combined with rising housing costs across the City and the State, have made it increasingly difficult for those who live and work in Santa Monica to find rental housing that is available, affordable, and meets their needs. The Council finds and declares that the City's rental housing stock should, to the extent possible, be preserved for use as long-term permanent housing, and further finds and declares that tenants are entitled to contractual relationships with landlords that offer some assurances of stability and minimize frequent displacements of tenants in a rental housing market affording tenants few and increasingly expensive options.

**6.22.020 Definitions.**

For purposes of this Chapter, the following words or phrases shall have the following meanings:

(a) "Landlord" means an owner, lessor, sublessor, or any other person entitled to receive rent for the use and occupancy of any rental housing unit, or an agent, representative or successor of any of the foregoing.

(b) “Lease” means an agreement, oral or written or implied, between a landlord and a tenant for use or occupancy of a rental housing unit, or any portion of a rental housing unit, and for housing services.

(c) “Primary Residence” means the usual place of return for housing of a tenant, as documented by at least two of the following: motor vehicle registration, driver’s license, California state identification card, voter registration, income tax return, or a utility bill. A tenant can only have one primary residence.

(d) “Rental housing unit” means any of the following that is used as rental housing within the City:

(i) A dwelling unit, as defined by Santa Monica Municipal Code Section 9.52.020.0730, except that a dwelling unit for purposes of this Chapter may be less than 375 square feet in size;

(ii) An accessory dwelling unit, as defined by Santa Monica Municipal Code 9.51.020(A)(1)(b);

(iii) A junior accessory dwelling unit, as defined by Santa Monica Municipal Code Section 9.51.020(A)(1)(f); or

(iv) A unit in single-room occupancy housing, as defined by Santa Monica Municipal Code Section 9.51.020(A)(1)(d)(i).

(e) “Sublease” means a lease by a tenant to a subtenant transferring the right to possession to some or all of a rental unit for a term shorter than that of the tenant.

(f) “Tenant” means a tenant, subtenant, lessee, sublessee or any other person entitled under the terms of a lease to use or occupancy of any rental housing unit.

(g) “Unfurnished rental housing unit” means a rental housing unit that is delivered by the landlord to the tenant without any furnishings, computer equipment, housewares, bed linens, towels, artwork, televisions, entertainment systems, or appliances except for a stove, a refrigerator, a microwave, a dishwasher, a clothes washing machine and/or a clothes dryer.

**6.22.040 Requirement to lease rental housing units to natural persons**

A landlord and tenant may enter into a lease only if the tenant is a natural person.

**6.22.050 Requirement that a tenant use and occupy a rental housing unit as the tenant’s primary residence**

A landlord and tenant may enter into a lease only if the tenant will use and occupy the rental housing unit as the tenant’s primary residence. No later than sixty (60) days following the commencement of the lease, the tenant must provide and the landlord must receive documentation as specified in Section 6.22.020(c) that the rental housing unit is the tenant’s primary residence. Landlord shall retain this documentation throughout the duration of tenant’s lease and shall provide it to the Director of the Community Development Department or delegee on request.

**6.22.060 Requirement of minimum lease terms to tenants**

A landlord and tenant may enter into a lease only if it is in writing and for an initial lease term of no less than one year.

**6.22.070 Requirement that landlord deliver unfurnished housing units**

A landlord and tenant may enter into a lease only if the rental housing unit is an unfurnished rental housing unit. A sublessor who is a natural person and who will continue to reside in the rental unit as his or her primary residence is exempt from this

requirement as is a sublessor who enters into a sublease that replaces a departed tenant or subtenant under the rental agreement on a one-for-one basis.

**6.22.080 Notice**

Landlords shall provide all prospective tenants with a written notice summarizing the requirements of Sections 6.22.060 and 6.22.070. The notification must be provided in English and Spanish and must be provided electronically if the application and/or lease are processed electronically. The form of the notice required shall be determined by administrative regulations issued pursuant to Section 6.22.130.

**6.22.090 Prohibition**

No person shall undertake, maintain, authorize, aid, facilitate or advertise any lease of a rental housing unit that does not comply with this Chapter.

**6.22.100 Applicability**

- (a) This chapter shall not apply to:
  - (1) Rental housing units lawfully occupied and subject to a written lease as of the effective date of this Ordinance until the tenant or tenants using and occupying the rental housing unit vacate the unit;
  - (2) Rental housing units lawfully occupied and not subject to a written lease as of the effective date of this Ordinance until the tenant or tenants using and occupying the rental housing unit vacate the unit;
  - (3) Home-sharing lawfully conducted in accordance with Santa Monica Municipal Code Chapter 6.20;

(b) In the event of any conflict between the provisions of this Chapter and any laws, regulations, requirements governing rental housing units described in paragraphs (1) and (2) below, those laws, regulations or requirements shall prevail.

(1) Rental housing units owned or operated by any government agency or whose rent is subsidized by any government agency, including but not limited to subsidies under the federal government's Housing Choice Voucher program (Section 8); and

(2) Rental housing units subject to a covenant or agreement, such as an inclusionary housing agreement or an affordable housing agreement, with a government agency, including the City, the State of California, or the federal government, restricting the rental rate that may be charged for that unit.

#### **6.22.110 Tenant remedies**

(a) *Defense to Action to Recover Possession.* It shall be a defense in any legal action brought by the landlord to recover possession of a rental housing unit within one year of the tenant's initial occupancy of the rental housing unit that the landlord failed to comply with the provisions of Section 6.22.060, Section 6.22.070, or Section 6.22.080.

(b) *Defense to Action to Collect Rent.* It shall be a defense in any legal action brought by the landlord to collect rent for a rental housing unit within one year of the tenant's initial occupancy of the rental housing unit that the landlord failed to comply with the provisions of Section 6.22.060, Section 6.22.070, or Section 6.22.080.

(c) *Injunctive Relief.* A tenant may seek injunctive relief on his or her own behalf and on behalf of other affected tenants to enjoin the landlord's violation of this Chapter.



(d) *Remedies are Nonexclusive.* Remedies provided in this Section are in addition to any other existing legal remedies and are not intended to be exclusive.

#### **6.22.120 Nonwaiver**

Any waiver or purported waiver by a tenant of his or her rights under this chapter prior to the time when such rights may be exercised shall be void as contrary to public policy.

#### **6.22.130 Administrative Regulations**

The City Manager or designee may promulgate administrative regulations to implement the provisions of this Chapter, including, but not limited to, noticing procedures and requirements. No person shall fail to comply with any such regulations.

#### **6.22.140 Enforcement**

(a) Any person who violates any provision of this Chapter shall be subject to administrative fines and administrative penalties pursuant to Chapters 1.09 and 1.10 of this Code.

(b) Any person who violates any provision of this Chapter shall be guilty of an infraction which shall be punishable by a fine not exceeding seven hundred fifty dollars, or a misdemeanor, which shall be punishable by a fine not exceeding one thousand dollars, or by imprisonment in the County Jail for a period not exceeding six months or by both such fine and imprisonment.

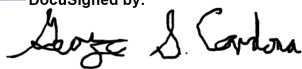
(c) The remedies provided in this Section are not exclusive, and nothing in this Section shall preclude the use or application of any other remedies, penalties or procedures established by law.

SECTION 2. Any provision of the Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

SECTION 3. If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by a decision of any court of competent jurisdiction, 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 and every section, subsection, sentence, clause, or phrase not declared invalid or unconstitutional without regard to whether any portion of the ordinance would be subsequently declared invalid or unconstitutional.

SECTION 4. The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

APPROVED AS TO FORM:

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GEORGE S. CARDONA  
Interim City Attorney

Approved and adopted this 8<sup>th</sup> day of September, 2020.

DocuSigned by:  
*Kevin McKeown*  
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Kevin McKeown, Mayor

State of California            )  
County of Los Angeles       ) ss.  
City of Santa Monica         )

I, Denise Anderson-Warren, City Clerk of the City of Santa Monica, do hereby certify that the foregoing Ordinance No. 2650 (CCS) had its introduction on August 25, 2020 and was adopted at the Santa Monica City Council meeting held on September 8, 2020, by the following vote:

AYES:       Councilmembers Davis, Himmelrich, Jara, McCowan, Winterer  
              Mayor Pro Tem O'Day, Mayor McKeown

NOES:       None

ABSENT:     None

ATTEST:

DocuSigned by:  
*Denise Anderson-Warren*  
E2E85B056A714C3

Denise Anderson-Warren, City Clerk

9/21/2020

Date

A summary of Ordinance No. 2650 (CCS) was duly published pursuant to California Government Code Section 40806.