

ORDINANCE NUMBER O- **21955** (NEW SERIES)

DATE OF FINAL PASSAGE **MAY 22 2025**

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8 OF  
THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW  
DIVISION 11, SECTIONS 98.1101, 98.1102, 98.1103, AND  
98.1104, RELATING TO PROHIBITING ANTI-COMPETITIVE  
AUTOMATED RENT PRICE-FIXING.

RECITALS

The Council of the City of San Diego (Council) adopts this Ordinance based on the following:

A. The high cost of living and housing shortage in the City of San Diego (City) have contributed to the City's unaffordability. According to a March 2024 Zillow report, a family must earn \$275,000 a year to afford a home mortgage. According to an August 4, 2024, Times of San Diego article, the average rental rate for a two-bedroom residential dwelling unit in the City is \$2,489, almost 65% higher than the national median.

B. Landlords' use of algorithmic devices, which perform calculations of nonpublic competitor data concerning rental rates, occupancy levels, and other information, to set rental rates and occupancy levels has resulted in inflated rental rates and unfair rent increases and contributed to the City's unaffordability for families.

C. In response to the use of algorithmic devices to set rental rates and occupancy levels, in August 2024, the United States Department of Justice (DOJ) filed a lawsuit against RealPage, Inc. Eight Attorneys General, including California Attorney General Rob Bonta, joined the DOJ's lawsuit. The DOJ amended its lawsuit in January 2025 to add two Attorneys General and name landlords as defendants.

D. While the litigation is pending, software companies, such as RealPage, Inc., continue providing algorithmic devices to landlords in the City. City families cannot wait for the

DOJ lawsuit to run its course and, if successful, provide relief from inflated rental rates and unfair rent increases. The Council wishes to provide immediate relief to City families by prohibiting the sale, licensing, and use of algorithmic devices that use or incorporate nonpublic competitor data of two or more landlords to advise a landlord on, or recommend to a landlord, rental rates or occupancy levels that may be achieved for residential rental property in the City.

E. On October 30, 2024, the Council's Rules Committee requested the City Attorney's Office work with Council District 9 staff to draft this Ordinance and for Council District 9 staff to bring this Ordinance to Council for adoption.

F. San Diego Municipal Code section 11.0205 titled "Validity of Code – Severability" shall apply to this Ordinance.

G. The provisions of Chapter 1, Article 2 of the San Diego Municipal Code, including the enforcement of judicial and administrative remedies, shall apply to this Ordinance.

H. The Office of the City Attorney prepared this Ordinance based on the information provided by Council staff, including information provided by affected third parties and verified by Council staff, with the understanding that this information is complete and accurate.

#### ACTION ITEMS

Be it ordained by the Council of the City of San Diego:

Section 1. Chapter 9, Article 8 of the San Diego Municipal Code is amended by adding new Division 11, sections 98.1101, 98.1102, 98.1103, and 98.1104, to read as follows:

#### **Division 11: Prohibition of Anti-Competitive Automated Rent Price-Fixing**

##### **§98.1101 Purpose and Intent**

The purpose and intent of this Division is to protect San Diegans from artificially inflated rental rates and unfair rent increases by prohibiting the sale, licensing,

and use of *algorithmic devices*. This Division also provides *tenants* with remedies for violations of this Division.

**§98.1102 Definitions**

For purposes of this Division, defined terms appear in italics. The following definitions apply in this Division:

*Algorithmic device* means a software or product that uses or incorporates one or more algorithms to perform calculations of *nonpublic competitor data* of two or more *landlords* to advise a *landlord* on, or recommend to a *landlord*, rental rates or occupancy levels that may be achieved for a *residential rental property* in the City of San Diego. *Algorithmic device* does not include the following:

- (a) A software or product used by a *person* to publish reports regarding rental rates or occupancy levels from aggregated historical *nonpublic competitor data* that is more than 90 days old, or from information available to the general public, and does not recommend rental rates or occupancy levels for future *residential rental property leases* or renewals.
- (b) A software or product used by a *person* to establish rental rates or income limits in accordance with local, state, or federal affordable housing program guidelines.
- (c) A software or product used by a *person* conducting an appraisal that does not recommend rental rates during the runtime operation of the software or product.

*Landlord* has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

*Lease* has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

*Nonpublic competitor data* means information that is not available to the general public, whether the information is attributable to a specific competitor or anonymized or whether the information is derived from or otherwise provided by another *person*. *Nonpublic competitor data* includes information about actual rental rates, rental rate changes, *residential rental property* supply levels, occupancy levels, or *lease* start and end dates.

*Person* has the same meaning as in San Diego Municipal Code section 11.0210, as may be amended.

*Residential rental property* has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

*Tenant* has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

**§98.1103      Use and Sale of Algorithmic Devices Prohibited**

- (a) It is unlawful for a *person* to sell, license, or otherwise provide an *algorithmic device* to a *landlord*.
- (b) It is unlawful for a *landlord* to use an *algorithmic device* to set rental rates or occupancy levels for *residential rental property*.

For each month a violation of section 98.1103(b) exists or continues, and for each *residential rental property* a *landlord* uses an *algorithmic device*, it shall constitute a separate and distinct violation.

**§98.1104 Remedies**

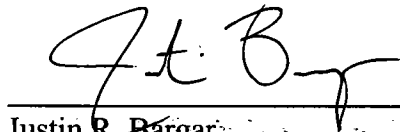
- (a) A *tenant* may seek injunctive relief, damages, or civil penalties of up to \$1,000 per violation of this Division, in a civil action against a *landlord*.  
In an action brought under this Division, a prevailing *landlord* or *tenant* shall recover costs and reasonable attorney's fees. A prevailing *tenant* includes a *tenant* granted an order for injunctive relief. A *lease* provision that limits a *landlord* or *tenant* from recovering attorney's fees shall not be enforceable against a *landlord's* or *tenant's* claim for attorney's fees that arise under this Division.
- (b) The remedies under section 98.1104 are cumulative and are in addition to any other remedies in this Division or at law, statute, or ordinance.
- (c) The City may enforce this Division under Chapter 1, Article 2 of this Code, including civil and criminal remedies.

Section 2. The Council dispenses with a full reading of this Ordinance before its passage because a written copy of this Ordinance was made available to the Council and the public before the date of its passage.

Section 3. This Ordinance will take effect and be in force on the thirtieth day from and after its final passage.

APPROVED: HEATHER FERBERT, City Attorney

By



Justin R. Bargar  
Deputy City Attorney

JRB:HRM:nja  
November 14, 2024  
April 9, 2025 COR. COPY  
April 16, 2025 REV. COR. COPY  
Or. Dept: Council District 9  
Doc. No. 4026408

I certify that the Council of the City of San Diego adopted this Ordinance at a meeting held on  
MAY 13 2025.

DIANA J.S. FUENTES  
City Clerk

By *Kristelle Medina*  
Deputy City Clerk

Approved: 5/22/25  
(date)

*Todd Gloria*  
TODD GLORIA, Mayor

Vetoed: \_\_\_\_\_  
(date)

\_\_\_\_\_  
TODD GLORIA, Mayor

## STRIKEOUT ORDINANCE

OLD LANGUAGE: ~~Struck Out~~

NEW LANGUAGE: Double Underline

ORDINANCE NUMBER O-\_\_\_\_\_ (NEW SERIES)

DATE OF FINAL PASSAGE \_\_\_\_\_

AN ORDINANCE AMENDING CHAPTER 9, ARTICLE 8 OF  
THE SAN DIEGO MUNICIPAL CODE BY ADDING NEW  
DIVISION 11, SECTIONS 98.1101, 98.1102, 98.1103, AND  
98.1104, RELATING TO PROHIBITING ANTI-COMPETITIVE  
AUTOMATED RENT PRICE-FIXING.

### Division 11: Prohibition of Anti-Competitive Automated Rent Price-Fixing

#### §98.1101      Purpose and Intent

The purpose and intent of this Division is to protect San Diegans from artificially  
inflated rental rates and unfair rent increases by prohibiting the sale, licensing,  
and use of *algorithmic devices*. This Division also provides *tenants* with remedies  
for violations of this Division.

#### §98.1102      Definitions

For purposes of this Division, defined terms appear in italics. The following  
definitions apply in this Division:

*Algorithmic device* means a software or product that uses or incorporates one or  
more algorithms to perform calculations of *nonpublic competitor data* of two or  
more *landlords* to advise a *landlord* on, or recommend to a *landlord*, rental rates  
or occupancy levels that may be achieved for a *residential rental property* in the  
City of San Diego. *Algorithmic device* does not include the following:

- (a) A software or product used by a *person* to publish reports regarding rental rates or occupancy levels from aggregated historical *nonpublic competitor data* that is more than 90 days old, or from information available to the general public, and does not recommend rental rates or occupancy levels for future *residential rental property leases* or renewals.
- (b) A software or product used by a *person* to establish rental rates or income limits in accordance with local, state, or federal affordable housing program guidelines.
- (c) A software or product used by a *person* conducting an appraisal that does not recommend rental rates during the runtime operation of the software or product.

*Landlord* has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

*Lease* has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

*Nonpublic competitor data* means information that is not available to the general public, whether the information is attributable to a specific competitor or anonymized or whether the information is derived from or otherwise provided by another *person*. *Nonpublic competitor data* includes information about actual rental rates, rental rate changes, *residential rental property* supply levels, occupancy levels, or *lease* start and end dates.

*Person* has the same meaning as in San Diego Municipal Code section 11.0210, as may be amended.



Residential rental property has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

Tenant has the same meaning as in San Diego Municipal Code section 98.0702, as may be amended.

**§98.1103**      **Use and Sale of Algorithmic Devices Prohibited**

(a)      It is unlawful for a *person* to sell, license, or otherwise provide an algorithmic device to a landlord.

(b)      It is unlawful for a *landlord* to use an *algorithmic device* to set rental rates or occupancy levels for *residential rental property*.

For each month a violation of section 98.1103(b) exists or continues, and for each *residential rental property* a *landlord* uses an *algorithmic device*, it shall constitute a separate and distinct violation.

**§98.1104**      **Remedies**

(a)      A *tenant* may seek injunctive relief, damages, or civil penalties of up to \$1,000 per violation of this Division, in a civil action against a *landlord*. In an action brought under this Division, a prevailing *landlord* or *tenant* shall recover costs and reasonable attorney's fees. A prevailing *tenant* includes a *tenant* granted an order for injunctive relief. A *lease* provision that limits a *landlord* or *tenant* from recovering attorney's fees shall not be enforceable against a *landlord's* or *tenant's* claim for attorney's fees that arise under this Division.

(b)      The remedies under section 98.1104 are cumulative and are in addition to any other remedies in this Division or at law, statute, or ordinance.

(c) The City may enforce this Division under Chapter 1, Article 2 of this  
Code, including civil and criminal remedies.

JRB:HRM:nja  
November 14, 2024  
April 9, 2025 COR. COPY  
April 16, 2025 REV. COR. COPY  
Or. Dept: Council District 9  
Doc. No. 4026404

Passed by the Council of The City of San Diego on MAY 13 2025, by the following vote:

Councilmembers	Yeas	Nays	Not Present	Recused
Joe LaCava	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Jennifer Campbell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Stephen Whitburn	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Henry L. Foster III	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marni von Wilpert	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Kent Lee	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Raul A. Campillo	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Vivian Moreno	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sean Elo-Rivera	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Date of final passage MAY 22 2025.

AUTHENTICATED BY:

(Seal)

TODD GLORIA  
Mayor of The City of San Diego, California.

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Connie Patterson Deputy

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

APR 15 2025

, and on MAY 22 2025.

I FURTHER CERTIFY that said ordinance was read in full prior to passage or that such reading was dispensed with by a vote of five members of the Council, and that a written copy of the ordinance was made available to each member of the Council and the public prior to the day of its passage.

(Seal)

DIANA J.S. FUENTES  
City Clerk of The City of San Diego, California.

By Connie Patterson, Deputy

Office of the City Clerk, San Diego, California

Ordinance Number O- 21955