

ORDINANCE NO. 2025-43

AN ORDINANCE OF THE CITY COUNCIL OF THE OF THE CITY OF SAN MARCOS, TEXAS AMENDING CHAPTER 46 OF THE SAN MARCOS CITY CODE BY ADDING A NEW ARTICLE 4 TO FORMALLY RECOGNIZE AND CODIFY A TENANT’S RIGHT TO ORGANIZE; PROVIDING PENALTIES FOR VIOLATION OF THE ARTICLE; PROVIDING A SAVINGS CLAUSE; PROVIDING FOR THE REPEAL OF ANY CONFLICTING PROVISIONS; AND DECLARING AN EFFECTIVE DATE.

RECITALS:

1. The City Council of the City of San Marcos, Texas has determined that there is a need to formally recognize and codify a tenant’s right to establish or participate in a tenant organization without fear of retaliation from the landlord, property manager or agent.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN MARCOS, TEXAS:

SECTION 1. Chapter 46 of the San Marcos City Code is hereby amended as set forth below.

Secs. 46.107 – 46.120. – Reserved.

Article 4. – Tenant Right to Organize.

Sec. 46.121. – Purpose.

The purpose of this article is to grant a right to a tenant to establish or participate in a tenant organization.

Sec. 46.122. – Definitions.

In this article:

- (1) **ACCOUNTABLE OFFICIAL** means the City officer or employee designated to administer, implement, and enforce this article.
- (2) **DWELLING** means one or more rooms leased for use and occupancy as a residence.
- (3) **LANDLORD** means a person who owns, leases, or subleases a dwelling but does not include a property manager or agent.
- (4) **LEASE** means any written or oral agreement between a landlord and

tenant that establishes or modifies the terms, conditions, rules, or other provisions regarding the use and occupancy of a dwelling.

- (5) ON-SITE AREA means a community room or other available space for meetings that is located at the premises.
- (6) PREMISES means a tenant's dwelling, any on-site area or facility the lease authorizes a tenant to use, and the appurtenances, grounds, and facilities held out for the use of tenants generally.
- (7) PROPERTY MANAGER OR AGENT means any individual or entity authorized by the property owner to act on their behalf in the management, operation, leasing, or maintenance of a rental dwelling.

For the purposes of legal notice and process service, the property manager or agent shall be considered the owner's authorized representative if the owner has not otherwise provided written notice of their own name and business address to the tenant.

- (8) TENANT means a person, or a member of their household, who is authorized to use or occupy a dwelling to the exclusion of others.
- (9) TENANT ORGANIZER means a person who works or volunteers for a non-profit organization that assists tenants in establishing and operating a tenant organization; and is not an employee or representative of the current or prospective owner, the current or prospective manager, or an agent of such persons.

Sec. 46.123. – Administration and Enforcement.

- (a) The City Manager shall designate an official to administer, implement, and enforce this article.
- (b) The designated official may adopt rules to implement, administer, and enforce this article.

Sec. 46.124. – Rights Established.

- (a) A tenant may establish and participate in a tenant organization without landlord, property manager or agent interference with the activities described in Subsection (b).
- (b) A tenant establishes or participates in a tenant organization if the tenant engages in one or more of the following activities:
 - (1) initiates contact with other tenants at the premises related to

- tenant organizing;
 - (2) posts information related to tenant organizing on a bulletin board that is available at the premises for use by tenants generally;
 - (3) distributes information related to tenant organizing to other tenants at the premises;
 - (4) meets or attempts to meet with tenants, non-tenants, or tenant organizations at the premises;
 - (5) invites tenant organizers to assist with organizing, if accompanied by a tenant; or
 - (6) takes other actions related to establishing or operating a tenant organization.
- (c) In this article, initiating contact with other tenants at the premises includes, but is not limited to, conducting door-to-door surveys of tenants to ascertain interest in establishing a tenant organization or offering information about tenant organizations.
- (d) Nothing in this article requires a tenant to establish or participate in a tenant organization.
- (e) A tenant's right to invite a tenant organizer to assist with organizing includes the tenant organizer entering the multi-family property and communicating with tenants on the premises; assisting tenants in establishing and operating a tenant organization; and participating in protected tenant organizing activities. This provision does not protect tenant organizer conduct that is otherwise in breach of local, state, or federal laws.

Sec. 46.125. – Interference Prohibited.

- (a) A landlord, property manager or agent may not intentionally interfere or allow another to interfere with a tenant's right to exercise the activities defined in Section 46.124 (*Right Established*).
- (b) A landlord, property manager or agent interferes with a tenant's right under Section 46.124 (*Right Established*) if the landlord, property manager or agent intentionally acts in a way that hinders, impedes, or obstructs:
- (1) the tenant from the use of the premises for tenant organizing activities defined in Section 46.124 (*Right Established*);
 - (2) services or decreases services to the tenant except as provided for in Subsection (c);
 - (3) a tenant initiating contact with other tenants at the premises related to tenant organizing;

- (4) a tenant from posting information related to tenant organizing on a bulletin board that is available at the premises for use by tenants generally;
 - (5) a tenant from distributing information related to tenant organizing to other tenants at the premises;
 - (6) a tenant from meeting or attempting to meet with tenants, non-tenants, or organizations at the premises; or
 - (7) a tenant from inviting tenant organizers to assist with organizing, if accompanied by a tenant.
- (c) A landlord, property manager or agent does not interfere with a tenant's right under Section 46.124 (*Right Established*) if the landlord, property manager or agent:
- (1) initiates contact with tenants related to concerns;
 - (2) meets or attempts to meet with tenants except for meetings related to tenant organization activities which require invitation from the tenant organization;
 - (3) informs tenants which bulletin boards are available for use by tenants generally;
 - (4) removes information posted or distributed by a tenant or a tenant organization that is discriminatory;
 - (5) requests a tenant or a tenant's guest to comply with the conduct outlined in an existing lease provided such request does not interfere with a right protected under Section 46.124 (*Right Established*);
 - (6) request a tenant or tenant's guest to remove litter caused by the distribution of material;
 - (7) assesses a fee that is included in the tenant's written lease provided that it does not interfere with a right protected under Section 46.124 (*Right Established*);
 - (8) assesses a fee that is included in the tenant's written lease and imposed on each tenant for the use of an on-site area or facility provided that it does not interfere with a right protected under Section 46.124 (*Right Established*);
 - (9) reduces services as part of a pattern of service reductions applicable to each tenant at the premises;
 - (10) enforces any section of an existing lease provided such request does not interfere with a right protected under Section 46.124 (*Right Established*); or
 - (11) exercises reasonable limitations on time, manner, and place of activities under Section 46.124 (*Right Established*) to avoid disruption of landlord's business operations or the quiet enjoyment of the premises by other tenants.

Sec. 46.126. – Tenant Conduct and Breach of Lease.

This article does not authorize conduct that constitutes a breach of a tenant's lease and is not protected under Section 46.124 (*Right Established*).

Sec. 46.127. – Offense and Penalty.

- (a) The intent of this ordinance is education and agreement. Enforcement measures shall only be taken as a last measure.
- (b) A landlord, property manager or agent who violates or allows another to violate this article commits a misdemeanor punishable as provided by Section 1.015 (*General penalty for violations of code; continuing violations*).
- (c) A violation of this article and any subsequent enforcement of this article does not limit or modify a tenant's remedy in a proceeding authorized under Chapter 92 of the Texas Property Code.

Secs. 46.128 – 46.140. – Reserved.

SECTION 2. In codifying the changes and additions authorized by this ordinance, paragraphs, sections, and subsections may be renumbered and reformatted as appropriate consistent with the numbering and formatting of the San Marcos City Code.

SECTION 3. If any word, phrase, clause, sentence, or paragraph of this ordinance is held to be unconstitutional or invalid by a court of competent jurisdiction, the other provisions of this ordinance will continue in force if they can be given effect without the invalid portion.

SECTION 4. All ordinances and resolutions or parts of ordinances or resolutions in conflict with this ordinance are repealed.

SECTION 5. This ordinance shall become effective after its passage, approval and adoption on second reading.

PASSED AND APPROVED on first reading on October 8, 2025

PASSED, APPROVED AND ADOPTED on second reading on October 21, 2025.

Jane Hughson
Mayor

Attest:

Elizabeth Trevino
City Clerk

Approved:

Samuel J. Aguirre
City Attorney