

REPORT

To the Honorable Mayor and City Council
From the City Manager

March 26, 2018

SUBJECT

Housing Policy Ordinances establishing Minimum Lease Terms and Relocation Assistance

RECOMMENDATION

1. Hold a public hearing;
2. Waive First Reading and Introduce an Ordinance Requiring Minimum Lease Terms;
3. Waive First Reading and Introduce an Ordinance Requiring Relocation Assistance; and
4. Find that the proposed ordinances are exempt from the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3)

BACKGROUND

At the February 8, 2016 “Managing Growth” study session, the Council tasked the Housing and Human Concerns Committee (HHCC) with hosting a series of community meetings to hear experts present on housing policy topics and to obtain resident input on potential housing policies. The Council recommended that tenant protection policies be the focus of these meetings and that the Committee develop options for Council consideration.

The HHCC held two community meetings in May and June of 2016 to hear presentations, engage in community conversation on the topics, and obtain community input in order to make recommendations to Council. The presentation topics focused on Bay Area approaches to tenant protections and methods to increase housing production. Peninsula Conflict Resolution Center (PCRC) facilitated the meetings, which were well attended by property owners and renters. During the meetings, many residents expressed their concerns about recent rent increases that have priced them out of Redwood City, or would force them to move soon. Several property owners expressed their concerns over potential new regulations, and potential impact to their source of income. The comments heard at the meetings were constructive, and provided beneficial background for the subsequent HHCC discussions.

Following the two meetings mentioned above the HHCC held a series of regular and special meetings and formed a few small “ad-hoc” groups to focus on certain topics. On October 24, 2016, the HHCC made nine affordable housing policy recommendations to Council during their joint study session, based on the HHCC’s research and community input. During the study session the Council provided comment and direction on HHCC recommended housing policies. The Council categorized the recommended policies into three groups - action items, items needing additional research, or items that required no further action. The Council requested the HHCC conduct additional research and analysis on four specific items and return to Council with this information and their additional recommendations. The four items included Minimum Lease Terms, Relocation Assistance, Inclusionary Zoning and Impact Fee Strategy.

Over the course of several months, beginning in November 2016 and concluding March 2017, the HHCC held regular and special meetings where they heard presentations and held facilitated discussions related to three specific items the Council selected for additional research: Minimum Lease Terms, Relocation Assistance and Inclusionary Zoning. The Housing Impact Fee Strategy was studied through a separate process.

The Council requested that the HHCC consider several factors when conducting their research. These factors included comparison and evaluation of similar ordinances or policies from at least three other similar sized cities, date of policy adoption, length of implementation and policy adoption process. Other factors included evaluating whether the policies are serving their intended purpose, have resulted in unforeseen circumstances or costs, their effectiveness and what could be done better or differently. For minimum lease terms and relocation policies, the HHCC evaluated whether income-based “means testing” should be a factor. For example, they considered whether greater assistance should be provided to persons in certain income groups or with special needs, and/or whether certain households/persons should be ineligible for assistance. Additionally, the HHCC evaluated the resources required to administer policies and the source of funds to pay these expenses, how are they enforced and by whom.

Due to the complexity of the housing policies, a consultant was hired to conduct research, provide information and presentations to the HHCC and facilitate discussion on the policies. The consultant provided reference materials, presentations and facilitated the HHCC discussions on each policy topic during the public meetings. Some of the cities that were included in the policy comparison were Glendale, Menlo Park, Mountain View, Palo Alto, San Mateo, and Santa Monica.

The HHCC carefully considered, discussed and debated each policy and concluded their research process with unanimous recommendations. The HHCC sought to strike a balanced approach to each policy for the benefit of both tenants and property owners. Their recommendations were also based on legal mandates, best practices, potential feasibility and community input.

On June 26, 2017, Council received the HHCC follow up housing policy analysis and recommendations on minimum lease terms and relocation assistance and Council directed staff to draft ordinances for each and conduct a full legal review prior to Council consideration of the final implementing ordinances. The Council also accepted the HHCC recommendation that an Inclusionary Zoning Ordinance be considered in the future.

ANALYSIS

Minimum Lease Terms Ordinance

The Minimum Lease Term Ordinance requires landlords to offer a minimum one-year lease term to provide more stability for tenants by protecting them against rent increases for the duration of the lease period. Tenants also have the option to negotiate a lease term of less than one year that a landlord must consent to as an alternative to the minimum one-year lease term, which can provide flexibility for the tenant and the landlord. However, while a landlord is required to offer a tenant a new lease at the end of the succeeding lease term, if the landlord chooses to renew the lease with that tenant, the landlord is free to demand whatever rental rate the market will bear at the time of lease renewal. There are no constraints on landlord raising rents at the end of the lease agreement and each time the lease agreement is renewed.

The ordinance is applicable to residential projects that include three or more units for a few primary reasons. Less than three units are considered smaller properties (“Mom and Pop” landlords) and generally have lower rents and less ability to absorb cost increases and the reduced flexibility associated with minimum lease requirements as compared to larger rental developments. The second primary reason for applying the ordinance to properties with three or more units is to avoid creating disincentives for accessory dwelling units, which are considered to be a form of affordable housing. The following are exempt from the ordinance:

- A single-family dwelling;
- Duplexes;
- Rooms or accommodations in hotels and boardinghouses which are rented to transient guests for a period of less than thirty consecutive days;

- Housing accommodations in any hospital, skilled nursing, health or care facility, extended-care facility, nonprofit home for the aged;
- Dwelling units in which housing accommodations are shared by landlord and tenant;
- Secondary dwelling units;
- Dwelling units in a condominium, planned unit development or community apartment;
- Housing accommodations rented by a medical institution which are then subleased to a patient or patient's family;
- Dwelling units whose rents are controlled or regulated by any government unit, agency or authority, or whose rent is subsidized by any government unit, agency or authority; or
- Dwelling units acquired by the city or any other governmental unit, agency or authority intended to be used for public purposes.

Policy Administration

Based on the methods of administration of similar minimum lease term policies and ordinances in other local cities, this ordinance is intended to be administered autonomously, with City intervention and enforcement provided on a complaint basis. One city reported they assessed a nominal monetary penalty for violations to the ordinance, however, in hindsight they recommend the penalties be substantial enough to provide a stronger disincentive for violations. The City's draft ordinance would rely upon Chapter 1, Section 1.7 of the Municipal Code for penalties and violations, which include a fine of \$100 per day for the first violation, \$200 per day for a second violation and \$500 per day for each additional violation within one year. If these fines are not sufficient to deter violations, the City may evaluate whether it would be possible to amend the ordinance with alternative penalties in the future.

Public Outreach and Notification

The City would implement an extensive policy outreach and education process in advance of the ordinance being in effect. This ordinance would become effective January 1, 2019.

Relocation Assistance Ordinance

The primary purpose for relocation assistance is to alleviate some of the trauma and disruption to tenants and their families caused by an unforeseen need for relocation (i.e., children leaving school mid-year) by addressing some of the financial impacts. Securing replacement housing generally requires a significant amount of money for expenses related to a physical move, such as first and last month's rent and security deposits. Projects assisted with Federal and State funds are subject to requirements to

provide relocation assistance to households displaced by those projects. There is currently no State mandate for landlords to assist displaced tenants by compensating for relocation costs. While an unanticipated move may be challenging for any tenant, it is especially difficult for extremely low, very low and low income households.

The ordinance requires a minimum of three months' rent to assist low income tenants with first and last month's rent and a security deposit for securing a replacement unit in cases of displacement. The ordinance requirements provide an opportunity for lower income households to find alternative housing. The ordinance is intended to avoid impacting "Mom and Pop" landlords by exempting properties with four units or less. While not directly a strategy to reduce potential displacement of tenants, since the payment is made after eviction occurs, the amount of the relocation and any other requirements for the landlord can provide a deterrent to displacement.

Requirement to Provide Relocation Assistance

The Relocation Assistance Ordinance includes a number of components requiring landlords to provide relocation assistance to lower income tenants, defined as households earning eighty percent (80%) or less of the Area Median Income ("AMI"). The number of rental units displaced or that will be displaced that would trigger relocation assistance requirements is one or more rental units on properties with five or more units by residential households within a one-year period as the result of or to enable any of the following:

- The landlord seeks to withdraw all rental housing units from the rental housing market;
- The landlord seeks to recover possession to demolish or otherwise remove a residential rental housing unit from residential rental housing use;
- The landlord seeks to recover possession to remodel, renovate or rehabilitate the unit(s) resulting in permanent displacement of tenants;
- The landlord seeks the conversion of a building into a condominium, community apartment or stock cooperative; or
- A change of use of real property from a residential use to a nonresidential use that requires a permit from the city

Relocation assistance is not applicable as the result of the following:

- A conversion of any portion of a mobile home park;
- A landlord's compliance with an enforcement order of the City's Chief Building Official for which the property owner has been ordered to pay relocation expenses pursuant to Health and Safety Code §17975, et seq., or any other state or federal law;

- The residential household is required to vacate the rental unit due solely to damage resulting from an earthquake, fire, flood, natural disaster, civil disturbance, or accident outside the control of the landlord; or
- Temporary displacement where tenants have been provided with alternative housing on site or nearby provided that such displacement shall be for a period of no more than one year.

Eligible Households

An eligible residential household is defined as a displaced residential household whose annual household income does not exceed eighty percent of the area median household income for San Mateo County as adjusted for household size according to the United States Department of Housing and Urban Development, as may be adjusted from time to time. The presumption of eligibility specified in the preceding sentence shall not apply where the landlord provides evidence of any of the following circumstances:

- The residential household's occupancy ended due to the expiration of a term lease and the tenancy was not extended; or
- The residential household (a) is in the process of being evicted due to a failure to pay rent as required by the rental agreement or violated other terms of the rental agreement, or (b) has been found guilty of unlawful detainer, or (c) has entered into a stipulated agreement in an unlawful detainer action which requires vacation of the premises; or
- The residential household received written notice, prior to entering into a written or oral agreement to become a tenant, that an application to convert their rental unit to another use was on file with the city or had already been approved and would result in their displacement.

Special Circumstance Households

The ordinance includes additional relocation assistance for households defined as "special-circumstances households" with any of the following characteristics:

- At least one member is sixty-two years of age or older;
- At least one member qualifies as disabled or handicapped; or
- A household with one or more minor children (under eighteen years of age) who are legally dependent
- A household that has occupied their unit as their primary residence for five or more consecutive years

Relocation Assistance

The landlord shall provide relocation assistance to eligible residential households in accordance with the following requirements:

- A full refund of a tenant's security deposit, except for funds that may be necessary to repair tenant's damage to property in rental units that will be reoccupied prior to undergoing renovation or demolition.
- A sixty day subscription to a rental agency service.
- The cash equivalent of three months' rent shall be paid to the eligible household renting a unit. The amount to be paid shall be based on the United States Department of Housing and Urban Development ("HUD") Fair Market Rent for a similar-sized unit in Redwood City.
- Special-circumstances households will be paid one additional month of rent for a maximum of four months' rent.
- An administrative fee as set forth in the ordinance.

Tenant Displacement Notices

The ordinance includes requirements for landlords to provide tenants displacement notices no later than thirty days after filing a relocation assistance application with the City. Landlords shall also provide a written notice of termination to all tenants subject to displacement in accordance with State law. The ordinance specifies the method and timing of the required notifications and the following information:

- The name and address of the current property owner and the project developer;
- A description of the application(s) being filed and a general time frame to complete the work described in the application;
- An explanation of the relocation assistance available to eligible residential households and special-circumstances households, information on eligible residential household incomes and the procedure for submitting claims for relocation assistance;
- Contact information for the third-party agency that will be assisting with the relocation assistance process. This contact information and a brief explanation of the purpose of the notice shall be translated into non-English languages as provided by the city;
- The residential household's right to receive written notice for each hearing and right to appear and be heard at land use hearing, if applicable; and
- Other information deemed necessary or desirable by the community development department.

Policy Administration

Based on the methods of administration of relocation policies and ordinances in other local cities and their implementation, the HHCC recommended that a City policy be administered by the City through a third party relocation vendor or consultant. Property owners would be required to submit a deposit to pay for relocation assistance based on the total estimated cost of relocation, the direct costs of the relocation consultant and the cost of City staff time to coordinate. The use of a cost reimbursement basis will minimize any impact to City general funds and the use of a third party consultant to administer the relocation reduces the impact on limited staff resources. Further, the use of a third party relocation consultant helps to ensure consistent and fair implementation of relocation.

Public Outreach and Notification

The City would implement an extensive policy outreach and education process in advance of the adoption of the ordinance. Planning development applications and building permits would be used to identify projects that require tenant relocation subject to similar ordinances. Other projects causing relocation, but which do not require an application or permit, would be enforced when the City is notified of the action subject to the ordinance. The City's draft ordinance would rely upon Chapter 1, Section 1.7 of the Municipal Code for penalties and violations, which include a fine of \$100 per day for the first violation, \$200 per day for a second violation and \$500 per day for each additional violation within one year. If these fines are not sufficient to deter violations, the City may evaluate whether it would be possible to amend the ordinance with alternative penalties in the future. This ordinance would become effective January 1, 2019.

ALTERNATIVES

The Council could recommend changes or alternatives to proposed ordinances.

FISCAL IMPACT

The fiscal impact of the approval of these ordinances will include the cost of staff time to enforce the provisions of the ordinances. The Minimum Lease Terms ordinance will require staff to develop new public outreach communications and staff time to provide enforcement as necessary. The Relocation Assistance Ordinance will include the cost of staff time to implement the provisions of the ordinance including reviewing relocation assistance applications and identifying a relocation assistance vendor. A fee for staff time will be determined through the preparation of a Nexus Study. Once the City Council adopts the fee, the fee can be used to offset expenses to administer the requirements of these ordinances.

ENVIRONMENTAL REVIEW

Adoption of the Minimum Lease Terms ordinance is not a project within the meaning of the California Environmental Quality Act (CEQA) because the ordinance is a government mechanism that does not involve any commitment to any specific project (CEQA Guidelines Section 15378(b)(4)). Even if adoption of the ordinance were a project, it would be exempt from CEQA because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment (CEQA Guidelines Section 15061(b)(3)).



RHONDA COFFMAN
HOUSING & GRANTS MANAGER



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ATTACHMENTS:

1. DRAFT ORDINANCE – MINIMUM LEASE TERMS
2. DRAFT ORDINANCE – RELOCATION BENEFITS