



CITY OF PALO ALTO OFFICE OF THE CITY ATTORNEY

September 17, 2018

The Honorable City Council
Palo Alto, California

Adoption of an Ordinance Amending Chapter 9.68 (Rental Housing Stabilization) of Title 9 (Public Peace, Morals, and Safety) of the Palo Alto Municipal Code to Require Relocation Assistance for No-fault Eviction for Multifamily Housing Developments Containing 50 or More Rental Units, Either on SECOND READING of the Ordinance Adopted on FIRST READING on August 27, 2018 (PASSED 7-1 Tanaka no, Fine absent), or on FIRST READING of a Revised Ordinance on the Same Topic (REMOVED FROM CONSENT on SEPTEMBER 10, 2018)

Recommendation

Staff recommends that the City Council either:

1. Adopt on Second Reading an Ordinance Amending Chapter 9.68 (Rental Housing Stabilization) of the Palo Alto Municipal Code to Require Relocation Assistance Payments for No-Fault Evictions for Multifamily Housing Developments Containing 50 or More Rental Units, which was adopted on First Reading on August 27, 2018 (Attachment A); or
2. Adopt on First Reading a Revised Ordinance on the Same Topic (Attachment B).

Background

On August 27, 2018, the City Council considered and adopted both an emergency ordinance and a substantively identical regular ordinance requiring relocation assistance payments for income-qualified tenants who are subject to no-fault eviction from a multifamily housing development of 50 or more units. In accordance with Palo Alto Municipal Code (PAMC) section 2.04.270, the emergency ordinance went into effect immediately and the regular ordinance was scheduled for second reading on the Council's September 10, 2018 consent calendar. On September 10, 2018, a majority of Council members voted to remove the second reading of the regular ordinance from the consent calendar and the item was scheduled for discussion and action on September 17, 2018. The staff report and minutes for the August 27, 2018 meeting are available here: [August 27, 2018 Staff Report](#) [August 27, 2018 Minutes](#).

Pursuant to PAMC section 2.04.270, the Council may direct that minor amendments be made to an ordinance on its second reading, provided that its "general scope and original intention" are retained. Such minor amendments are typically non-substantive, clarifying, or explanatory changes. By contrast, amendments that change the scope or substance of an ordinance may not be adopted as part of a second reading; if the Council wished to make more substantive

changes, the hearing on the amended ordinance would be treated as a new first reading and a new second reading would need to be scheduled for a subsequent meeting.

Discussion

Attachment A is an ordinance that is substantively unchanged from the ordinance the Council adopted on first reading on August 27, 2018. Staff has added two clarifying provisions as uncodified sections to the ordinance: The first clarifies the Council's intent that the full relocation assistance payments be applicable to no-fault evictions that occur after the effective date of the ordinance, regardless of the date on which the notice of eviction was provided. The second clarifies that the ordinance should be understood to add, rather than amend, the operative language in the event that Emergency Ordinance 5447 is held invalid.

Attachment B is a revised ordinance that reflects community comments at the Council's September 10, 2018 meeting supporting elimination of the income-qualification provision that was included in the first reading. This change, and any other substantive changes the Council may direct, will require that this hearing be treated as a first reading of the amended ordinance and that a second reading be scheduled at a later date. Attachment B also includes the uncodified, clarifying provisions discussed above.

Timeline

If the Council adopts Attachment A, the ordinance will be passed on second reading and will go into effect on October 18, 2018 (the thirty-first day after its passage on second reading). If the Council adopts Attachment B or other ordinance with substantive changes, the ordinance will need to be scheduled for a second reading; the earliest date for a second reading is October 1, 2018. If Attachment B is then passed on second reading on October 1, 2018, it would go into effect on November 1, 2018.

Resource Impact

As with other elements of the City's Rental Housing Stabilization ordinance, the proposed ordinance will create privately enforceable rights that do not involve the City in administration or enforcement, except that the Director of Planning and Community Environment is authorized to issue explanatory/ implementing regulations and will be responsible for annually updating the amounts of relocation assistance required.

Environmental Review

The proposed ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that the ordinance is found to be a project under CEQA, it is covered by the CEQA exemption contained in CEQA Guidelines

section 15061(b)(3), because it can be seen with certainty to have no possibility of a significant effect on the environment.

ATTACHMENTS:

- Attachment A - Relocation Assistance Regular Ordinance v2 (PDF)
- Attachment B - Revised Relocation Assistance Regular Ordinance (PDF)

Department Head: Molly Stump, City Attorney

NOT YET APPROVED

ORDINANCE NO. _____

Ordinance of the Council of the City of Palo Alto Amending Chapter 9.68 (Rental Housing Stabilization) of Title 9 (Public Peace, Morals, and Safety) of the Palo Alto Municipal Code to Require Relocation Assistance for No-Fault Eviction for Multifamily Housing Developments Containing 50 or More Rental Units

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

- (a) There is a significant and prolonged shortage of, but increasing demand for, rental housing in the City of Palo Alto. These conditions have created a housing crisis that is particularly acute for those residents of Palo Alto seeking rental housing.
- (b) Numerous recent studies conclude that the housing crises at the state and local levels have reached emergency levels. An April 2018 report by the California Housing Partnership states that Santa Clara County is facing a “housing emergency,” resulting in a 13% rise in homelessness and demand for almost 60,000 more affordable rental units throughout the county. A May 2018 report by Next 10 ranks California 3rd worst among states in share of household income spent on rental costs and worst in the nation for rental housing over-crowdedness.
- (c) The cost of housing in Palo Alto is among the highest in the world. As of July 2018, the median home sales price is reported at over \$3 million and the median rent is reported as high as \$5,900 per month.
- (d) According to rental market tracking sites Zumper, Trulia, and Rentometer, as of August 2018, the average rent in Palo Alto is approximately \$2,300 per month for a studio, \$2,900 for a one-bedroom, \$4,300 for a two-bedroom, \$5,600 for a three-bedroom, and \$7,000 for a four-bedroom unit.
- (e) Tenants evicted in Palo Alto are forced to incur substantial costs related to new housing including, but not limited to, move-in costs, moving costs, new utility hook-ups, payments for temporary housing, and lost work time seeking housing.
- (f) Move-in costs commonly include first and last month's rent plus a security deposit equal to one month's rent, leading to total relocation expenses in excess of three months' rent.
- (g) Tenants who do not have adequate funds to move and who are forced to move pursuant to no-fault eviction notice face displacement and great hardship. The costs of relocation pose particular challenges for tenants whose income is at or below the area median income.

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- (h) In addition, the impacts of these no-fault evictions are particularly significant on low-income, elderly, and disabled tenants, and tenants with minor children, justifying an additional payment for households with these tenants.
- (i) Certain no-fault evictions that reduce the number of rental units available, whether on a temporary or permanent basis, exacerbate the housing crisis in Palo Alto, particularly for structures containing 50 or more rental units.
- (j) For the reasons set forth above, the relocation assistance provided in this ordinance is justified and necessary as an emergency measure for evicted tenants to find new housing and avoid displacement and to otherwise preserve the public peace, health, and safety.

SECTION 2. Section 9.68.035 (Relocation Assistance for Certain Displacements) of the Chapter 9.68 (Rental Housing Stabilization) of Title 9 (Public Peace, Morals, and Safety) of the Palo Alto Municipal Code is hereby amended to read as follows:

9.68.035 Relocation Assistance for No Fault Eviction

- (a) This section shall be applicable only to structures or lots containing 50 or more rental units.
- (b) For the purposes of this section, a “no-fault eviction” means an action by a landlord to recover possession of a rental unit for any reason other than the following:
 1. The tenant has failed to pay rent to which the landlord is legally entitled.
 2. The tenant has violated a lawful obligation or covenant of the tenancy.
 3. The tenant has refused the landlord reasonable access to the unit for the purposes of making repairs or improvements, for any reasonable purpose as permitted by law, or for the purpose of showing the rental unit to any prospective purchaser or tenant.
 4. The tenant is permitting a nuisance to exist in, or is causing damage to, the rental unit.
 5. The tenant is using or permitting a rental unit to be used for any illegal purpose.
 6. The landlord seeks in good faith to recover possession of the rental unit in order to comply with regulations relating to the qualifications of tenancy established by a governmental entity, where the tenant is no longer qualified.
No fault evictions shall include, without limitation, actions in which the landlord seeks in good faith to recover possession of the rental unit:
 7. To demolish or otherwise permanently withdraw the rental unit from offer for rent or lease pursuant to California Government Code sections 7060-7060.7.

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- 8. To perform work on the building or buildings housing the rental unit that will render the rentable unit uninhabitable;
- 9. For use and occupancy by the landlord or the landlord’s spouse, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, daughter-in-law, children, or parents provided the landlord is a natural person.
- 10. For no specified cause.

(c) For the purposes of this section, an “eligible household” means a displaced residential household whose annual household income does not exceed 100% of the area median household income for Santa Clara County, as adjusted for household size according the United States Department of Housing and Urban Development, as may be adjusted from time to time, and whose rental payments to the landlord remain current through the date of displacement.

(d) Whenever a landlord seeks a no-fault eviction of an eligible household, as defined in this section, other than temporary displacement of 31 days or fewer, the landlord shall provide a relocation assistance payment as follows:

1. Unit Type	Amount
0 bedrooms	\$7,000
1 bedroom	\$9,000
2 bedrooms	\$13,000
3 or more bedrooms	\$17,000

If the eligible household occupying a rental unit is comprised of two or more tenants, the landlord shall provide each tenant with a proportional share of the required payment. One half of the payment shall be paid at the time that the landlord provides notice of its intent to seek no-fault eviction or as soon thereafter as the landlord is aware that the rental unit is occupied by an eligible household; the remainder of the payment shall be paid to each tenant when that tenant vacates the unit.

2. Notwithstanding subsection (d)(1), each rental unit that, at the time the landlord provides notice of its intent to seek no-fault eviction, is occupied by a low-income household as defined in Chapter 16.65, a tenant who is 60 years of age or older, a tenant who is disabled within the meaning of Government Code section 12955.3, or a tenant who is a minor, shall be entitled to a single additional relocation payment of \$3,000. This amount shall be divided equally among the qualifying (i.e. low-income, elderly, disabled, or minor) tenants. In order to receive this additional payment a qualifying tenant must provide written notice to the landlord of his or her eligibility along with supporting evidence within 15 days of receiving the landlord’s notice. The entirety of this additional payment shall be paid within 15 days of the tenant’s written notice to the landlord.

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- (e) Prior to or at the same time that the landlord provides notice of its intent to seek no-fault eviction, the landlord shall serve on the tenant a written notice describing the rights described in this section. The failure to provide this notice shall not operate as a substantive defense to an eviction pursuant to California Government Code sections 7060-7060.7.
- (f) Commencing July 1, 2019, the relocation payments specified in this section shall increase annually at the rate of increase in the "rent of primary residence" expenditure category of the Consumer Price Index (CPI) for All Urban Consumers in the San Francisco-Oakland-San Jose Region for the preceding calendar year. Current rates shall be published on the City's website.
- (g) A landlord may request a waiver or adjustment of the relocation assistance payment required by this section only upon a showing that strict application of its requirements would effectuate an unconstitutional taking of property or otherwise have an unconstitutional application to the property. Requests for waiver or adjustment must be submitted in writing to the Director of Planning and Community Environment together with supporting documentation at least 90 days before the proposed termination of tenancy. Requests shall be acted on by the City Council.
- (h) The Director of Planning and Community Environment may issue regulations implementing this section.

SECTION 3. It is the intent of the City Council that the relocation assistance provided for in this Ordinance shall be paid in full by a landlord who recovers possession of a rental unit after the effective date of this ordinance as a result of no fault eviction, regardless of the date that notice of eviction is provided. In the event the landlord provided notice of no-fault eviction before the effective date of this Ordinance, the landlord shall pay one half of the relocation payment at any time up to and including the date on which each tenant vacates the unit; the landlord shall pay the remainder of the payment no later than the date when each tenant vacates the unit.

SECTION 4. If any provision, clause, sentence or paragraph of this Ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable. In addition, this Ordinance is enacted to exercise the specific authority provided for in Chapter 12.75 of Division 7 of Title 1 of the California Government Code and reserved to local governments in Chapter 2.7 of Title 5 of Part 4 of Division 3 of the California Civil Code. In the case of any amendment to these chapters or any other provision of State law which amendment is inconsistent with this Ordinance, this Ordinance shall be deemed to be amended to be consistent with State law.

SECTION 5. In the event Ordinance No. 5447 is held invalid, Section 2 of this Ordinance shall be deemed to add, rather than amend, Section 9.68.035 (Relocation Assistance for

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Certain Displacements) of the Chapter 9.68 (Rental Housing Stabilization) of Title 9 (Public Peace, Morals, and Safety) of the Palo Alto Municipal Code.

SECTION 6. The City Council finds and determines that this Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

SECTION 7. This ordinance shall be effective on the thirty-first day after the date of its adoption.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager

Director of Planning and Community Environment

Director of Administrative Services

NOT YET APPROVED

ORDINANCE NO. _____

Ordinance of the Council of the City of Palo Alto Amending Chapter 9.68 (Rental Housing Stabilization) of Title 9 (Public Peace, Morals, and Safety) of the Palo Alto Municipal Code to Require Relocation Assistance for No-Fault Eviction for Multifamily Housing Developments Containing 50 or More Rental Units

The Council of the City of Palo Alto does ORDAIN as follows:

SECTION 1. Findings and Declarations. The City Council finds and declares as follows:

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- (b) Numerous recent studies conclude that the housing crises at the state and local levels have reached emergency levels. An April 2018 report by the California Housing Partnership states that Santa Clara County is facing a “housing emergency,” resulting in a 13% rise in homelessness and demand for almost 60,000 more affordable rental units throughout the county. A May 2018 report by Next 10 ranks California 3rd worst among states in share of household income spent on rental costs and worst in the nation for rental housing over-crowdedness.
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- (f) Move-in costs commonly include first and last month's rent plus a security deposit equal to one month's rent, leading to total relocation expenses in excess of three months' rent.
- (g) Tenants who do not have adequate funds to move and who are forced to move pursuant to no-fault eviction notice face displacement and great hardship.
- (h) The impacts of these no-fault evictions are particularly significant on low-income, elderly, and disabled tenants, and tenants with minor children, justifying an additional payment for households with these tenants.

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- (i) Certain no-fault evictions that reduce the number of rental units available, whether on a temporary or permanent basis, exacerbate the housing crisis in Palo Alto, particularly for structures containing 50 or more rental units.
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 3. The tenant has refused the landlord reasonable access to the unit for the purposes of making repairs or improvements, for any reasonable purpose as permitted by law, or for the purpose of showing the rental unit to any prospective purchaser or tenant.
 4. The tenant is permitting a nuisance to exist in, or is causing damage to, the rental unit.
 5. The tenant is using or permitting a rental unit to be used for any illegal purpose.
 6. The landlord seeks in good faith to recover possession of the rental unit in order to comply with regulations relating to the qualifications of tenancy established by a governmental entity, where the tenant is no longer qualified.

No fault evictions shall include, without limitation, actions in which the landlord seeks in good faith to recover possession of the rental unit:
 7. To demolish or otherwise permanently withdraw the rental unit from offer for rent or lease pursuant to California Government Code sections 7060-7060.7.
 8. To perform work on the building or buildings housing the rental unit that will render the rentable unit uninhabitable;
 9. For use and occupancy by the landlord or the landlord’s spouse, grandparents, brother, sister, father-in-law, mother-in-law, son-in-

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law, daughter-in-law, children, or parents provided the landlord is a natural person.

10. For no specified cause.

(c) Whenever a landlord seeks a no-fault eviction, as defined in this section, other than temporary displacement of 31 days or fewer, the landlord shall provide a relocation assistance payment as follows:

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2. Notwithstanding subsection (d)(1), each rental unit that, at the time the landlord provides notice of its intent to seek no-fault eviction, is occupied by a low-income household as defined in Chapter 16.65, a tenant who is 60 years of age or older, a tenant who is disabled within the meaning of Government Code section 12955.3, or a tenant who is a minor, shall be entitled to a single additional relocation payment of \$3,000. This amount shall be divided equally among the qualifying (i.e. low-income, elderly, disabled, or minor) tenants. In order to receive this additional payment a qualifying tenant must provide written notice to the landlord of his or her eligibility along with supporting evidence within 15 days of receiving the landlord's notice. The entirety of this additional payment shall be paid within 15 days of the tenant's written notice to the landlord.

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- (g) The Director of Planning and Community Environment may issue regulations implementing this section.

SECTION 3. It is the intent of the City Council that the relocation assistance provided for in this Ordinance shall be paid in full by a landlord who recovers possession of a rental unit after the effective date of this ordinance as a result of no fault eviction, regardless of the date that notice of eviction is provided. In the event the landlord provided notice of no-fault eviction before the effective date of this Ordinance, the landlord shall pay one half of the relocation payment at any time up to and including the date on which each tenant vacates the unit; the landlord shall pay the remainder of the payment no later than the date when each tenant vacates the unit.

SECTION 4. If any provision, clause, sentence or paragraph of this Ordinance, or the application to any person or circumstances, shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application and, to this end, the provisions of this Ordinance are hereby declared to be severable. In addition, this Ordinance is enacted to exercise the specific authority provided for in Chapter 12.75 of Division 7 of Title 1 of the California Government Code and reserved to local governments in Chapter 2.7 of Title 5 of Part 4 of Division 3 of the California Civil Code. In the case of any amendment to these chapters or any other provision of State law which amendment is inconsistent with this Ordinance, this Ordinance shall be deemed to be amended to be consistent with State law.

SECTION 5. In the event Ordinance No. 5447 is held invalid, Section 2 of this Ordinance shall be deemed to add, rather than amend, Section 9.68.035 (Relocation Assistance for Certain Displacements) of the Chapter 9.68 (Rental Housing Stabilization) of Title 9 (Public Peace, Morals, and Safety) of the Palo Alto Municipal Code.

SECTION 6. The City Council finds and determines that this Ordinance is not a project within the meaning of section 15378 of the California Environmental Quality Act ("CEQA") because it has no potential for resulting in physical change in the environment, either directly or ultimately. In the event that this Ordinance is found to be a project under CEQA, it is subject to the CEQA exemption contained in CEQA Guidelines section 15061(b)(3) because it can be seen with certainty to have no possibility of a significant effect on the environment.

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SECTION 7. This ordinance shall be effective on the thirty-first day after the date of its adoption.

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NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

Mayor

APPROVED AS TO FORM:

APPROVED:

City Attorney

City Manager

Director of Planning and Community
Environment

Director of Administrative
Services