

ORDINANCE NO. _____
ORDINANCE OF THE COUNCIL OF THE CITY OF PALO
ALTO ADDING CHAPTER 9.72 TO TITLE 9 [PUBLIC
PEACE, MORALS AND SAFETY] OF THE PALO ALTO
MUNICIPAL CODE RELATING TO MANDATORY RESPONSE TO
REQUEST FOR DISCUSSION OF DISPUTES BETWEEN
LANDLORDS AND TENANTS

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

SECTION 1. Chapter 9.72 is hereby added to Title 9 [Public Peace, Morals And Safety] of the Palo Alto Municipal Code to read as follows:

**CHAPTER 9.72
MANDATORY RESPONSE TO REQUEST FOR DISCUSSION OF DISPUTES BETWEEN
LANDLORDS AND TENANTS**

9.72.010 Purposes and Findings. The City Council finds and declares as follows:

(a) There is an imbalance between the supply of and demand for rental housing in the City of Palo Alto. The imbalance is the result of both a shortage of rental housing and overwhelming market demand.

(b) The imbalance between supply and demand creates an imbalance of bargaining power between landlords and tenants.

(c) As a result of these market and bargaining power imbalances, Palo Alto tenants may be unwilling or unable to assert their legal rights and other concerns to their landlords.

(d) Communication between landlords and tenants is impaired as a result. Moreover, the Palo Alto rental housing market is less responsive to the needs of tenants because "customer service" is not needed to attract and retain tenants.

(e) These impacts are detrimental to the health, safety and general welfare of Palo Alto and the surrounding region because the stability, security and quality of housing opportunities are reduced.

(f) These impacts can be reduced by improving communications between landlords and tenants through a fair and reliable process for the conciliation and mediation of disputes.

(g) Because effective communication must be "two-way," it is essential that all affected parties be required to participate in mediated dispute resolution.

(h) In order to further assure improved communications it is necessary to protect the parties to mediation from retaliation for exercising the rights afforded by this chapter.

(i) The City Council recognizes that it is important to monitor and improve the processes established in this chapter on a periodic basis.

9.72.020 Mandatory Discussion of Rental Housing Disputes.

All persons (landlords and tenants) residing in, owning, or managing residential rental property to which this chapter applies shall participate in the conciliation and mediation of rental housing disputes as provided in this chapter. The definitions applicable to this chapter appear in Section 9.72.080.

9.72.030 Applicability.

This chapter shall apply to residential rental property as follows:

(a) Any residential rental property containing two or more dwelling units, except two-unit residential rental property in which one of the units is owner-occupied or

(b) Any residential rental property that is owned by a person or legal entity that owns two or more residential rental properties within the City.

9.72.040 Dispute Resolution Process.

(a) Any tenant or landlord may request mandatory discussion of rental housing disputes by filing a written request for dispute resolution within 21 days of learning the facts that give rise to the dispute. The request must be filed

with the City's Facilitation Administrator, and must provide enough factual information to outline the basic issue or issues being raised.

(b) Within 7 days of receiving a written request for dispute resolution, the Facilitation Administrator will notify both tenant and landlord that a case has been opened and will provide a copy of the request to the responding party. The Facilitation Administrator will also initiate a conciliation process, to be undertaken by the Facilitation Administrator, other City staff, or a Mediator, before mediation is scheduled.

(c) The Facilitation Administrator will not open dispute resolution, or will order dispute resolution closed, when it is clear from the written request that there is no substantial factual basis for the dispute, or when the dispute involves the actions or behavior of persons, or conditions, that are not within the control or responsibility of the parties; or when the dispute is frivolous, malicious or vexatious; or when further proceedings are not, in the sole judgment of the Facilitation Administrator, likely to be productive. Both parties will be notified of the Facilitation Administrator's action and shall have access to the case summary forms used by the Facilitation Administrator, which will not contain any confidential communications from the parties. The Facilitation Administrator will also order dispute resolution closed if the parties agree to engage a mediator of their own choice, so long as the party who requests the mediator agrees in writing to bear all costs related to that service.

(d) The Facilitation Administrator will promptly assign the request to a mediator who will contact all relevant parties to conciliate and mediate the dispute. The Facilitation Administrator shall have the authority to combine different disputes or different parties in the interest of efficiently addressing the disputes, provided that any party may, for reasons of confidentiality or otherwise, opt out of a combined mediation involving more than one tenant or landlord by notifying the Facilitation Administrator. All communications between the Facilitation Administrator and the parties as well as between the mediator or conciliator and the parties shall be confidential and subject to the confidentiality guarantees set forth in California Evidence Code sections 703.5 and 1115-1128, as they may be amended or superseded. The mediator assigned to the case will promptly investigate and if necessary disclose any conflict of interest or potential conflict of interest to the parties as soon as the conflict or potential conflict becomes

known to the mediator. At the time of disclosure, the parties will have the option of waiving any such conflict as long as the waiver is in writing. The City shall not be obligated to incur any financial obligation in order to assign a mediator. A mediator will not be assigned if there are not qualified volunteers available without cost to the City or parties.

(e) No mediation will be scheduled until at least 14 days after the parties are notified in order to allow time for conciliation efforts before mediation. Unless all parties agree in writing to waive the time limit, the initial mediation session will be conducted within 28 days of the date the written request for dispute resolution is filed. The landlord's business location shall be considered so that the mediation will be scheduled at a reasonably convenient time taking into account the distance that the landlord must travel to attend the mediation.

(f) If a mediation session is held, the mediator shall provide the parties with an opening statement explaining the nature of the process and the ground rules. Thereafter the mediator will determine the manner and course of the session, including whether to meet with the parties in caucus, provided that the general guiding principle will always be to provide the parties with a full opportunity to air the concerns giving rise to the dispute.

(g) The landlords and/or tenants involved in the dispute shall be obligated to personally appear at a mediation session scheduled by a mediator. All parties must participate in the mediation session until completion of the mediator's opening statement. All parties appearing must have the legal authority to resolve disputes arising under this chapter. Participation in mediation shall be voluntary in all respects after the opening statement. The Mediator may, with the consent of all parties, schedule additional sessions as needed.

(h) No party shall be obligated to reach any specific agreement, or to reach any agreement at all, as a result of participating in conciliation or mediation communications. If an agreement is reached, it will be stated in writing by the mediator or by the parties. Any such agreement shall be confidential and will not be enforceable or usable for any purpose outside the dispute resolution process, unless all signatories agree that the document can be disclosed or used in other proceedings.

9.72.050 Property Registration.

(a) The landlord of each residential rental property within the City shall register the unit or units with the City, regardless of whether the residential rental property is listed in section 9.72.030. The registration shall include the name and mailing address of the owner or owners of the property, as well as the name, mailing address and contact telephone number of the person having the legal authority to effectively resolve disputes arising under this chapter.

(b) For the sole purpose of reimbursing the City of Palo Alto for the reasonable costs of maintaining property registration records and related administrative systems, the owner or manager of each residential rental unit to which this chapter applies shall pay a fee in an amount to be set by the Palo Alto City Council.

9.72.060 Retaliation Prohibited.

No landlord or tenant who has been a party to conciliation and mediation of rental housing disputes pursuant to this chapter may undertake or cause any type of retaliatory act or omission against another party as a result of the other party having invoked or participated in the dispute resolution process. The Facilitation Administrator upon request shall review an act or omission, including a notice of eviction or an unlawful detainer action, which occurs within six months of the party's participation in conciliation and mediation of rental housing disputes, unless the eviction or action is the result of the unjustified failure or refusal to pay rent. In the event that the Facilitation Administrator concludes that there is sufficient evidence to investigate an act or omission of retaliation under this provision, the relevant facts will be referred to the city attorney for appropriate remedial action.

9.72.070 Notice of Tenant's Rights.

(a) Every rental agreement, lease, or other written document evidencing or changing the terms of tenancy for a Residential Rental Property to which this chapter applies shall include or be accompanied by the following: A notice summarizing the rights afforded by this chapter, including but not limited to the protection against retaliation; and the name, address and telephone number of the Facilitation Administrator. The Facilitation Administrator shall prepare and publish acceptable notification language, including the name, address

and phone number of the City's Facilitation Administrator. The notification shall be capitalized text at least 14 points in size and shall state:

"THE PALO ALTO MUNICIPAL CODE GIVES YOU THE RIGHT TO MEDIATION OF DISPUTES BETWEEN LANDLORD AND TENANT. YOU MUST REQUEST MEDIATION WITHIN 21 DAYS OF LEARNING ABOUT THE FACTS THAT CREATED THE DISPUTE. CONTACT THE CITY OF PALO ALTO'S FACILITATION ADMINISTRATOR [name, address and phone] FOR FURTHER INFORMATION. THE PALO ALTO MUNICIPAL CODE PROTECTS YOU FROM RETALIATION FOR EXERCISING YOUR RIGHT TO MEDIATION."

(b) The notification shall be provided in English, Spanish, Chinese and Russian in the translated form prepared and published by the Facilitation Administrator.

(c) Failure to provide this notification shall result in an automatic extension of the 21 day time limit for filing a written request for dispute resolution pursuant to section 9.72.040(a). The automatic extension shall remain in effect until 21 days after written notification is provided by the landlord.

(d) Failure to provide the notification shall be punishable pursuant to Palo Alto Municipal Code section 1.08.010 only if the landlord has been given written notification from the City that informs the landlord of its obligations pursuant to this section. The written notification to the landlord may be provided by any reliable means of communication, but shall be deemed received if sent via certified mail, postage prepaid, return receipt requested. The written notification may be in the form of a copy of this chapter. Copies of this chapter shall be provided to any Palo Alto landlord or tenant without cost upon request.

9.72.080 Definitions.

For the purpose of this chapter, the following terms are defined as follows:

(a) "Conciliation" means a confidential telephone call or other contacts by a mediator or the Facilitation Administrator with a landlord and tenant for the purpose of resolving a rental housing dispute.

(b) "Facilitation Administrator" means the person or entity responsible for the routine case intake, mediator assignment and other administrative duties of the dispute resolution process established by this chapter.

(c) "Landlord" means the owner or property manager exercising effective control over the terms and conditions of the tenancy of a residential rental property, including a person with such control delegated through a durable power of attorney.

(d) "Mediation" means a meeting in which landlord and tenant have the opportunity to communicate with a mediator and each other in a face-to-face setting at a neutral location in order to resolve a rental housing dispute under ground rules designed to protect the confidentiality and neutrality of the communications.

(e) "Mediator" means a person who is certified to have completed at least 40 hours of basic mediation training with subsequent advanced training, and who has also participated as a mediator or co-mediator in at least 10 mediations conducted under the auspices of a recognized community or commercial mediation program, and who has agreed (in a form acceptable to the Facilitation Administrator) to a statement of mediation ethics and principles, including an acknowledgement of the duty to disclose any conflicts of interest in any specific case.

(f) "Rental Housing Dispute" means a fact-based grievance raised by any tenant, owner, or property manager regarding the occupancy or use of rental property limited to rental rate increases, deposits, repairs and maintenance, utilities, occupants, parking and storage facilities, privacy, quiet enjoyment, or use of common areas.

(g) "Residential Rental Property" means any housing structure occupied as a dwelling or offered for rent or lease as a dwelling, whether attached, detached, single or multiple-family.

(h) "Tenant" means the person or entity entitled to occupy a residential rental property at the time that the rental housing dispute arises.

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SECTION 5. This ordinance shall be effective on the third day of January, 2002.

INTRODUCED:

PASSED:

AYES:

NOES:

ABSENT:

ABSTENTIONS:

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

Mayor

APPROVED:

City Manager

Director of Community
Services

Director of Administrative
Services