

BUSINESS OF THE COUNCIL OF THE CITY OF HALF MOON BAY

AGENDA REPORT

For meeting of: **December 3, 2019**

TO: Honorable Mayor and City Council

FROM: Jill Ekas, Director of Community Development
Sara Clark, Deputy City Attorney

TITLE: PROPOSED ENACTMENT OF CITY ORDINANCE REGARDING RESIDENTIAL RENTAL SECURITY MEASURES

RECOMMENDATION:

Conduct a public hearing, waive first reading, and introduce an ordinance enacting Chapter 7.70 (Residential Rental Security Measures) as part of the Half Moon Bay Municipal Code.

FISCAL IMPACT:

Part of the proposed amendments regulate the relationship between landlords and tenants in the City of Half Moon Bay. These amendments are not anticipated to have an impact on City finances. The remainder of the amendments establish a City-funded mediation program for landlords and tenants. Having conferred with staff in other cities, it is anticipated that the cost of mediation services can be covered by either Community Development or Community Services budgets. If the expense is unexpectedly higher than these budgets can support, it is possible for City Council to allocate monies from the Affordable Housing Fund to support this activity as an eligible use of that fund; however, staff recommends not drawing down the Affordable Housing Fund for such programmatic activities unless absolutely necessary.

STRATEGIC ELEMENT:

This action supports Healthy Communities and Public Safety, as well as the Inclusive Governance elements of the Strategic Plan.

BACKGROUND:

City's Existing Code: The Half Moon Bay Municipal Code does not currently provide residential rental security measures, except in two limited circumstances. First, pursuant to Chapter 18.30, mobile home park residents are provided relocation assistance and other rights in the event of a mobile home park conversion. Second, pursuant to Chapter 17.62, owners wishing to convert a building to condominiums must provide existing tenants with advanced notice of the conversion, the right to purchase the converted unit, and relocation assistance.

Previous City Consideration: In July and October 2018, the City convened two “Community Conversations about Housing” to learn and talk about housing and related issues in Half Moon Bay. These conversations were developed out of a partnership between the City and the County-led Home for All Initiative to help broaden and deepen the community’s understanding of housing conditions and needs. These conversations also built on City Council Listening Sessions in Spring 2018 where community members identified that housing affordability and security should be a City priority.

One of the strategies identified through these discussions is the addition of residential tenant protection measures to the City’s Code. The City currently lacks such protection measures, leaving tenants vulnerable to housing insecurity and increased rental costs. As a follow up to the Community Conversation in July, at their September 4, 2018 session, Council considered near, mid, and long-term options for inclusion in a Housing Work Plan. Council provided direction to maintain the Work Plan as a living document which could evolve over additional discussions. However, Council also identified work plan actions that could be taken to address immediate needs, including tenant protection measures. The September 4 staff report noted that tenant protection measures are well developed in other jurisdictions, and that staff would look into those established in elsewhere in San Mateo County and the Bay Area.

As a result, on November 20, 2018, Council considered four possible tenant protection measures: minimum lease terms, enhanced notice provisions, relocation assistance, and tenant-landlord mediation. After hearing community input, Council requested that staff prepare a draft ordinance. Staff presented a draft ordinance on January 15, 2019 for City Council’s consideration. Based on community feedback, the City Council directed staff to conduct additional outreach.

In Spring and Summer 2019, it became clear that the State Legislature might enact some form of statewide rent control. Given the potential for overlap, the City paused work on the Ordinance to await the state decision.

Tenant Protection Action of 2019 (AB 1482)

On October 8, 2019, Governor Newsom signed the Tenant Protection Act of 2019 into law. Effective January 1, 2020, this new law gives tenants statewide three rights: (1) just cause eviction standards, (2) relocation benefits, and (3) caps on rent increases.

First, the just cause eviction standards impose requirements on landlords regarding the termination of a tenancy. If a tenant has occupied a rental unit for more than one year, the tenancy cannot be terminated without just cause. “Just cause” is specified in the statute, and includes failure to pay rent, breach of lease terms, nuisance or waste, failure to reenter a new lease on similar terms after the expiration of an existing written lease, and criminal or unlawful activities.

In addition, the statute outlines “no-fault just causes.” These include owner or owner’s family move-in, withdrawal of the unit from the rental market, certain habitability repairs, and demolition or substantial remodeling. For no-fault just cause evictions, the landlord must then pay the tenant either one month’s rent in relocation assistance, or waive payment of the rent due for the final month of the tenancy.

Second, the Tenant Protection Act imposes certain caps on rent increases. Specifically, landlords are prohibited from increasing rental rates for existing tenants by more than 5 percent plus the change in the cost of living, or 10 percent, whichever is lower in any given 12 month period. This provision is retroactive, reaching back to rent increases after March 15, 2019, in order to prevent rent gouging before the law becomes effective.

Importantly, the Tenant Protection Act exempts certain units. These include units built within the last 15 years; single-family homes or condos that are not owned by a real-estate investment trust or corporation; deed-restricted affordable housing; duplexes (where the owner occupies one unit); and dormitories. In addition, the just cause eviction standards do not apply to hotels, care facilities, or units or single-family residences shared between tenants and owners.

The Tenant Protection Act will sunset on January 1, 2030.

DISCUSSION:

Staff has evaluated the prior residential rental protection measures considered by the City Council (minimum lease terms, enhanced notice requirements for termination of tenancies, relocation assistance, and mediation) in light of the Tenant Protection Act and the results of outreach to affected communities. Given these new statewide protections, especially protections to reduce evictions and their impacts, the proposed Ordinance does not include enhanced notice requirements or relocation assistance. Instead, the proposed Ordinance focuses on minimum lease terms and mediation.

Minimum Lease Terms

First, the ordinance requires that landlords offer potential tenants a minimum lease term of one year, both upon initial rental and any renewal. The landlord retains the discretion to set the price and other terms and the tenant may accept or reject the one-year lease. Other jurisdictions have adopted similar measures to provide additional stability to renters, who frequently have month-to-month leases under which rents may be raised at any time.

This provision aligns nicely with the Tenant Protection Act. Under that law, the just cause eviction standards, relocation assistance, and cap on rent increases only apply to tenants who have occupied a residence for more than one year. By requiring landlords to offer year long leases, the City can help ensure that more tenants qualify for the protections.

To ease implementation and avoid confusion, the proposed Ordinance mirrors the exemptions found in the Tenant Protection Act (i.e., units built within the last 15 years; single-family homes

or condos that are not owned by a real-estate investment trust or corporation, short-term rentals, certain accessory dwelling units, etc.). In addition, the proposed ordinance does not apply to existing leases, but does require that landlords offer one-year leases upon lease expiration, renewal, or rent increase. Finally, the proposed Ordinance exempts units that are rented as a condition of employment or to a corporation or entity.

The City has 4,716 housing units of all types of which 1,462 are rented and 3,254 are owner occupied. Among the rented units, 771 are in buildings with two or more units. Of these 771 rented units, 392 are already in buildings covered by deed restrictions for below market rents and minimum lease terms. Therefore, and taking into account these conditions, approximately 379 multi-family units are expected to be affected by the minimum lease term provision.¹

Landlord-Tenant Mediation.

Second, the proposed Ordinance would establish a City-sponsored mediation program. Pursuant to this section, any landlord or tenant could request that the City provide a mediator for a dispute involving rental rate increases, deposits, repairs and maintenance, utilities, occupants, parking and storage facilities, privacy, quiet enjoyment, or use of common areas.

Based on initial information from the parties, the city would retain the sole discretion to determine whether mediation is likely to be productive. If so, the city would assign each case to a third-party mediator to attempt to resolve the dispute. The parties would be required to attend the mediation and listen to the mediator's opening statement; however, the proposed ordinance does not otherwise bind the parties or guarantee any outcome. Mediation would be available for tenants and landlords of all rental units in the City.

Staff anticipates that the City will need to contract with a mediation service. Staff is currently researching options and will update Council in early 2020 once a contract is in place.

Enforcement.

The proposed ordinance includes a variety of mechanisms to encourage compliance. Landlords are required to provide notice of these programs to their tenants to help ensure that tenants are aware of their new rights. Tenants are also provided specific remedies to enforce these obligations against their landlords, including the right to assert noncompliance with these provisions as a defense in an eviction action or rent payment dispute. Finally, the city is permitted to bring civil litigation to enforce these provisions against landlords, in its discretion.

Outreach.

¹ Sources:

- Number of households: Latest California Department of Finance E-5 report, 1/1/2019.
- Percentage of home occupation of owners and renters: U.S. Census American Community Survey.
- Number of deed restricted units: City of Half Moon Bay Housing Element.

At the study session in January, a number of speakers representing various real estate interests expressed concern about the draft tenant protection measures ordinance. Generally, they found mediation to be acceptable, but challenged all of the other measures. Some speakers suggested that renters' insurance could affordably cover relocation. Staff researched this claim and found no such equivalent insurance product.

Staff met with representatives from the California Apartment Association (CAA) and the San Mateo County Association of Realtors (SAMCAR) in late summer (before AB 1482 passed) to discuss their perspective on the draft ordinance presented to City Council in January 2019. They explained that they were displeased with the "tenant protection" terminology because they felt it painted landlords as threatening to their tenants. In response to this input, these measures were brought forward as "rental security." With respect to the potential measures, CAA and SAMCAR were pleased that the City had decided to not bring relocation forward. CAA and SAMCAR expressed that mediation was an acceptable measure. In recent communication with these two groups, SAMCAR indicated that they remain very concerned about minimum lease terms. The CAA was initially supportive of minimum lease terms but explained to staff that passage of AB 1482 changes their perspective. Staff has encouraged both groups to review the ordinance and provide written comments so that staff can convey any specific topics of concern to Council.

Passage of AB 1482 changed the landscape for establishing rental security measures. Relocation and enhanced notice are covered by AB 1482 and staff recommends conforming to it for those measures. Mediation was never a significant concern for the real estate community, and staff believes that it will be an affordable and helpful service that the City can sponsor, and Half Moon Bay renters will appreciate. Staff has not been able to identify an effective alternative to minimum lease terms that would fulfill City Council's direction and thus is bringing this measure forward, consistent and complimentary to AB 1482, despite anticipated concern from some stakeholders as noted above.

CALIFORNIA ENVIRONMENTAL QUALITY ACT: The Ordinance is not a project within the meaning of section 15379 of the California Environmental Quality Act ("CEQA") Guidelines because the Ordinance regulates relationships between individual tenants and landlords and therefore has no potential to result in a physical change in the environment, either directly or indirectly. Furthermore, in the event that this Ordinance is found to be project under CEQA, it is exempt pursuant to CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that there is no possibility that the amendments may have a significant effect on the environment. The proposed amendments regulate relationships between individual tenants and landlords, and do not have the potential to change land use in a way that may result in physical changes to the environment.

ATTACHMENTS:

Draft Ordinance adding Chapter 7.70 "Residential Rental Security Measures" to the Half Moon Bay Municipal Code