



City Council Staff Report

From: City Manager

Report Type: ACTION ITEMS

Lead Department: Planning and Development Services

Meeting Date: June 5, 2023

Report #:2303-1133

TITLE

PUBLIC HEARING: Adoption of an Ordinance Amending Section Palo Alto Municipal Code Chapter 9.68, Rental Housing Stabilization, to Clarify the Definitions of At-Fault and No-Fault Just Cause for Evictions, Extend Just Cause Eviction Protections and Tenant Relocation Assistance to More Rental Units in Palo Alto than Offered by State Law, and Adopt a Security Deposit Limit for Unfurnished Rental Units in Palo Alto. Environmental Assessment: Exempt under CEQA Guidelines Section 15061(b)(3).

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt the attached Ordinance (Attachment A) amending Palo Alto Municipal Code (PAMC) Chapter 9.68, Rental Housing Stabilization, to clarify the definitions of at-fault and no-fault just cause for evictions, extend just cause eviction protections and tenant relocation assistance to more rental units in Palo Alto than offered by state law, and adopt a security deposit limit for unfurnished rental units in Palo Alto.

EXECUTIVE SUMMARY

At its November 29, 2021 meeting, City Council endorsed for implementation a package of rental protection policies. These policies add more certainty, stability, and fairness in the Palo Alto rental market for both renters and landlords. Within that larger package of rental focused policies, Council directed staff to return with the following:

- An ordinance to establish a local limit to the amount of a security deposit charged for unfurnished rental units in Palo Alto to one and a half times (1.5x) the monthly rent; and
- An ordinance to extend just cause eviction protections to more rental units in Palo Alto by including protections to rental units that received a Building Department certificate of occupancy within the past 15 years.

Given that both ordinances relate to rental housing stabilization, staff proposes reorganizing the existing PAMC Chapter 9.68, Rental Housing Stabilization, to include both policy changes in a

single ordinance (Attachment A). The incorporation of these policy changes would make Palo Alto consistent with and more protective of renters in some rental circumstances than what is offered by state law.

BACKGROUND

On November 29, 2021, City Council directed staff to study or implement a package of rental protection policies.¹ Within that larger package of rental protection policies, Council included direction to staff to return to Council with ordinances pertaining to security deposit limits and just cause eviction protections. City Council prioritized staff returning with the just cause eviction protections, and staff used this opportunity to also bring forward the security deposit limit changes. For the current status of the other Council directed rental package policy work, please see Attachment B.

Below is a summary of the relevant state security deposit limit and just cause eviction protections and the City Council directed local amendments.²

Security Deposit Limit

California Civil Code section 1950.5 currently limits security deposit amounts that a landlord can charge for rental units to two times the monthly rent.³ City Council directed staff to return with an ordinance that applied a local limit to the amount of a security deposit that can be charged for unfurnished rental units in Palo Alto to one and a half times (1.5x) the monthly rent, which is lower than the limit of two times (2x) the monthly rent in current state law.

Just Cause Eviction Protections

California Assembly Bill 1482 (AB 1482), the Tenant Protection Act of 2019,⁴ regulates the lawful reasons for evictions for many rental units in California. These reasons are referred to as “just cause” protections and are broken into two categories. One type of just cause eviction is where the renter is “at-fault” for non-compliance with their rental agreement; the other is a “no-fault” eviction that is based on things not within the renter’s control. For those rental circumstances

¹ City Council Meeting Minutes, 11/29/21: <https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2021/11-november/20211129/20211129amccs.pdf>

City Council City Manager Report ID # 13786, 11/29/21:

<https://www.cityofpaloalto.org/files/assets/public/agendas-minutes-reports/agendas-minutes/city-council-agendas-minutes/2021/11-november/20211129/20211129pccs.pdf>

City Renter Protection Policy Development Webpage: <https://www.cityofpaloalto.org/Departments/Planning-Development-Services/Long-Range-Planning/Renter-Protection-Policy-Development>

² The summary provided is for general informational purposes only and does not constitute legal advice. Contact an attorney to obtain advice on any particular legal matter.

³ California Civil Code section 1950.5:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?lawCode=CIV§ionNum=1950.5.

⁴ California Assembly Bill 1482 (2019):

https://leginfo.ca.gov/faces/billTextClient.xhtml?bill_id=201920200AB1482.

covered by AB 1482, as codified and amended in section 1946.2 of the California Civil Code,⁵ landlords can only evict renters with "just cause".

AB 1482 just cause eviction protections do not extend to all rental circumstances. For example, the following rental circumstances are not protected:

1. A unit occupied for less than 12 months,
2. Certain single family homes not owned by a corporation or trust,
3. A duplex where one of the units is the owner's principal residence from the beginning of tenancy, and
4. A unit that received a Building Department certificate of occupancy within the past 15 years.

Of the four rental circumstances listed above, City Council directed staff to return with an ordinance to extend protections to rental units that received a Building Department certificate of occupancy within the past 15 years.

Human Relations Commission (HRC) Recommendations

On February 9, 2023, the HRC recommended that City Council extend AB 1482 just cause eviction protections to more rental circumstances beyond what Council directed on November 29, 2021; namely, to renters in rental units occupied for less than 12 months and to renters of single family homes not owned by a corporation. The HRC also discussed other renter policies and made additional recommendations related to the effectiveness of the City's existing renter protections.⁶ HRC representatives and the City's Human Services staff will present the HRC's full recommendations to City Council later in the year for Council direction. The proposed draft ordinance follows Council's direction in 2021 and does not currently incorporate the HRC recommendations.

DISCUSSION

Incorporating the security deposit limit and the just cause eviction protections necessitated reorganizing the existing PAMC Chapter 9.68, Rental Housing Stabilization. Staff also included administrative adjustments and text edits, such as section renumbering and adding in subsection titles to PAMC Chapter 9.68. The existing PAMC Chapter 9.68, Rental Housing Stabilization, is currently available online.⁷ The draft ordinance (Attachment A) includes the entire PAMC Chapter 9.68, Rental Housing Stabilization as proposed to be codified. To assist with draft ordinance

⁵ California Civil Code section 1946.2:

https://leginfo.ca.gov/faces/codes_displaySection.xhtml?sectionNum=1946.2.&lawCode=CIV

⁶ For more specifics, refer to the HRC February 9, 2023 meeting minutes and the April 27, 2023 meeting minutes whereby one February 9, 2023 HRC motion was clarified:

<https://www.cityofpaloalto.org/Departments/Community-Services/Other-Services/Commissions/Human-Relations-Commission/HRC-Current-Year-Agendas-and-Minutes>

⁷ Palo Alto Municipal Code Chapter 9.68, Rental Housing Stabilization:

https://codelibrary.amlegal.com/codes/paloalto/latest/paloalto_ca/0-0-0-66765

review, the draft ordinance includes underlines (for text that is new or moved) and strikeouts (for text to be removed or that was moved). The highlights of the revised ordinance include:

- Revised purpose statement section;
- Revised definition section with new terms and clarifications to existing terms;
- Relocation of the non-applicability (exemption) language in the existing “residential rental unit” definition to the sections on one-year lease and existing relocation assistance for 10 units or more;
- Renumbering of several sections;
- Addition of new just cause evictions section consistent with state law;
- Addition of a new relocation assistance section that is consistent with state law, and
- Addition of a new security deposit limit section.

The draft ordinance reflects reorganization of the existing tenant relocation assistance section for 10 units or more by adding the exemption language noted in number three above and removing the redundant definition of “no-fault eviction.” Other than these minor revisions, the existing provisions for tenant relocation assistance remain unchanged. The draft ordinance does not make substantive changes to the other provisions in PAMC Chapter 9.68.

Security Deposit Limit

To integrate the security deposit limit into the existing PAMC Chapter 9.68, Rental Housing Stabilization, staff proposes a new section in the existing code to reflect the City Council proposed policy. Refer to the proposed PAMC Section 9.68.060, Security deposit limit. Staff has also included a definition of “security” in PAMC Section 9.68.020, Definitions.

If adopted, the security deposit limit of one and a half times (1.5x) the monthly rent would be applicable to all new tenancies for all unfurnished rental units in Palo Alto as of the ordinance effective date. The state limits the maximum potential security deposit for unfurnished rental units to two times (2x) the monthly rent. It is currently unknown what rental unit property owners/managers charge as a security deposit for new tenancies in Palo Alto – it could be up to the maximum allowed, or less. The effect of this policy would be to help reduce the total move-in costs for unfurnished rental units in Palo Alto, if the maximum security deposit would otherwise be charged.

Just Cause Eviction Protections

To integrate the just cause eviction protections in AB 1482 into the existing PAMC Chapter 9.68, Rental Housing Stabilization, for rental units that received Building Department occupancy approval within the past 15 years, the following are included in the draft ordinance:

- Amendments to definitions, including adding the definitions of “at-fault” and “no-fault” just cause eviction from AB 1482 and removing the former definition of “no-fault,”

- Amendments to the purpose section to clarify that the ordinance restates and expands AB 1482 to make the eviction protections in AB 1482 permanent in Palo Alto and extend them to all renters in Palo Alto not otherwise exempted by AB 1482 and living in rental units that were built and received Building Department occupancy approval within the past 15 years, and
- Findings that the ordinance would be more protective than AB 1482, as required by AB 1482.

The following existing exemptions in AB 1482 are replicated in the draft ordinance:

1. A unit occupied for less than 12 months;
2. Certain single family homes not owned by a corporation or trust; and
3. A duplex where one of the units is the owner's principal residence from the beginning of tenancy.

While the eviction protections in AB 1482 are already in effect for many rental units in Palo Alto, creating a local version helps to provide local transparency of rental unit policy. If adopted, the just cause eviction protections in AB 1482 would be in effect under local ordinance for all applicable renters in Palo Alto with the added inclusion of renters in rental units that were built and received Building Department occupancy approval within the past 15 years.

AB 1482 Carry-over Provisions for Just Cause Evictions

The preparation of a local just cause eviction ordinance requires the inclusion of some existing provisions from AB 1482. In addition to making refinements to the definitions in the revised PAMC chapter, the other notable additions made for consistency with state law include:

- Notice of Rights – landlords must provide notice to renters of their right to receive a statement of the just cause for terminating a tenancy in the future, which may take the form of a lease provision or an addendum to the lease,
- Notices to Terminate Tenancy – actual termination notices for a just cause eviction must include the specific just cause reason for terminating the tenancy,
- Opportunity to Resolve Issue – landlords need to give the opportunity for renters to cure any curable lease violation prior to issuing a notice to terminate tenancy for just cause, and
- Relocation Assistance - landlord shall provide relocation assistance or rent waiver, both equivalent to one month's rent, for a no-fault just cause eviction.

Community Outreach

Staff initiated a Renter and Landlord Survey – Fall 2022/Winter 2023, which remains open beyond the publication of this report. This short survey is oriented toward learning more about renters

and landlords in Palo Alto, publicizing overall rental unit policy development work, and asking a few questions that will help with future community outreach efforts for rental policy work.⁸

In the survey, staff placed information about existing Palo Alto policies - the City's tenant/landlord mediation services program and the local Tenant Relocation Assistance (TRA) requirements. The mediation services program is long-standing for many years and the local TRA requirements has been in effect since 2018. Staff found that almost half of the respondents were not aware of the City's mediation services program and almost three-quarters of respondents were not aware of the City's local TRA requirements.

These initial survey results have helped to inform staff on the increased degree of community engagement efforts needed to ensure awareness of existing City rental policies for both renters and property owners/property managers, as well as the anticipated significant community outreach effort necessary to inform community members of any new rental policies.

If the draft ordinance is adopted, future community outreach will include use of the City's recently created Housing newsletter, Uplift Local, the City's website, announcements sent to utilities customers, and social media channels. Staff will also include the ordinance in a series of stakeholder meetings with the California Apartment Association and the Palo Alto Renters' Association and others. Additionally, outreach can be folded into the City's community engagement efforts on Council's requested Rental Registry Program (RRP).

Implementation/Enforcement

Following Council adoption, staff will notify landlords and tenants through mailing lists that have been created through the City's continuing work on the rental registry. Staff will also host a community meeting in late summer or fall to answer questions about the subject ordinance and use that opportunity to communicate other meaningful requirements that renters and landlords should know.

This ordinance will be enforced privately. Meaning, any dispute concerning a landlord's compliance with these provisions would be addressed between the tenant and the landlord. The tenant could seek mediation support offered by the City or pursue legal action if warranted. City staff would not be engaged in ensuring compliance of these new provisions. This approach is similar to how the City addresses other local renter protection provisions of the code, such as tenant relocation assistance and the requirement to offer a one-year lease.

⁸ City of Palo Alto Renter and Landlord Survey – Fall 2022/Winter 2023:
<https://www.surveymonkey.com/r/RENTERLANDLORD2022>.

TIMELINE

If City Council takes action to approve the proposed ordinance, the second reading is tentatively scheduled for June 19, 2023. The ordinance would become effective 30 days after the second reading, tentatively July 20, 2023.

FISCAL/RESOURCE IMPACT

The draft ordinance was prepared using existing City staffing resources. No additional staff or budget resources are necessary to adopt and codify the ordinance. If adopted, staff would conduct community outreach regarding the new regulatory requirements for landlords and protections for tenants; this too could be absorbed in the department's budget.

It is anticipated that City staff would not be involved in the enforcement of this ordinance. If the City Council were interested in directing staff to enforce this or other local renter protection ordinances, additional fiscal impact analysis would be required. It is anticipated city enforcement would substantially impact the City's Code Enforcement program, require additional managerial support in planning and have resource impacts to the City Attorney's office.

POLICY IMPLICATIONS

Pursuing renter protection policy work is consistent with the goals in the City's 2030 Comprehensive Plan to provide adequate housing for all. Additionally, the renter protection policy work is consistent with the policies and programs in the Council adopted 2023-2031 Housing Element. Therefore, it is anticipated that this action would support the implementation of the Housing Element. These topics are considered a means to affirmatively further fair housing within Palo Alto, as well as a means by which to promote certainty, stability, and fairness in the rental market.

STAKEHOLDER ENGAGEMENT

While preparing this report, staff sent email notifications to identified stakeholders informing them of this draft ordinance and encouraged them to participate. Staff included a brief promotion of the City's overall rental unit policy development work in the November 2022 and in the May 2023 Utility & Community Announcements.⁹ Staff placed an ad in the Daily Post newspaper on May 26, 2023, 10 days in advance of the hearing. Public comments were received at the February 9, 2023 HRC meeting. The public comments did not directly pertain to Council's specific direction to prepare the security deposit limit and just cause eviction protection ordinance provisions. However, the comments did reflect the broader community sentiments in favor or against implementing specific renter protection policies.

⁹ Utilities Department Utility & Community Announcements (UCAs) are short promotional blurbs included in monthly residential bills. The November 2022 and May 2023 Utility & Community Announcements are online: <https://www.cityofpaloalto.org/files/assets/public/utilities/bill-inserts/nov-2022-uca.pdf> and <https://www.cityofpaloalto.org/files/assets/public/utilities/bill-inserts/may-2023-uca.pdf>.

ENVIRONMENTAL REVIEW

The California Public Resources Code § 21065 includes a definition of a “project” as subject to the California Environmental Quality Act (CEQA) if it is an activity directly undertaken by a public agency which may cause either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. This project is exempt from the provisions of the CEQA, pursuant to Section 15061(b)(3) of the CEQA Guidelines, because it can be seen with certainty that there is no possibility that the ordinance will have a significant effect on the environment.

ATTACHMENTS

Attachment A: Draft Ordinance - Just Cause Eviction and Security Deposit (Strikeout, Underlined, Annotated Version)

Attachment B: Renter Protection Policy Work Status Update

APPROVED BY:

Jonathan Lait, Planning and Development Services Director