



File #: 23-0485, Version: 1

REPORT TO PLANNING COMMISSION

SUBJECT

Forward a Recommendation to the City Council to Introduce an Ordinance to Add Chapter 19.71 of Title 19 of the Sunnyvale Municipal Code Creating a Residential Tenant Protections Programs (Study Issue)

BACKGROUND

On October 12, 2020, City Council approved the Housing Strategy (RTC No. 20-0809), which resulted from a cumulation of many workshops, outreach meetings and several public hearings. The Housing Strategy identified areas for improvement to current programs as well as new programs to consider for Sunnyvale's growing population and housing needs. Two items from the Housing Strategy that emerged as Tier 1 and 2 items were a relocation assistance requirement for no-fault just cause evictions and a right to lease requirement for landlords to offer tenants a longer-term lease rather than just month-to-month tenancy. The right to lease component of this Ordinance was also a 2019 City Council Study Issue (CDD 18-0710). City staff realized an opportunity to combine both projects into one and named it Tenant Protections. If approved, the resulting Ordinance will become part of Sunnyvale's Municipal Code.

The Housing and Human Services Commission (HHSC), Planning Commission and City Council were all scheduled to hear this item in the fall of 2022 but due to the complexity of the Ordinance, all hearings were continued to a date uncertain. Staff did hold a meeting with HHSC on September 21, 2022, to request feedback on conceptual ideas for an ordinance. The Commission provided feedback, which is summarized in the meeting minutes as Attachment 2 to this report.

During their March 22, 2023 meeting, the Housing and Human Services Commission considered the draft Ordinance. The Commission voted 6-0 (one commissioner absent) to recommend the Ordinance to City Council, with a modification to retain the state law provision for relocation assistance equal to one month of rent, which is distinguishable from the staff recommended relocation assistance equal to two months of rent.

This item is scheduled for consideration during the April 25, 2023 City Council meeting.

EXISTING POLICY

Sunnyvale General Plan, Housing Element

GOAL HE-1 Adequate Housing: Assist in the provision of adequate housing to meet the diverse needs of Sunnyvale's households of all income levels.

GOAL HE-2 Enhanced Housing Conditions and Affordability: Maintain and enhance the conditions and affordability of existing housing in Sunnyvale.

GOAL HE-5 Equal Housing Opportunities: Promote equal housing opportunities for all residents, including Sunnyvale’s special needs populations, so that residents can reside in the housing of their choice.

ENVIRONMENTAL REVIEW

The action being considered is exempt from the provisions of the California Environmental Quality Act (“CEQA”) under CEQA Guidelines Section 15061(b)(3) in that the City Council finds there is no possibility that the implementation of this ordinance may have a significant effect on the environment.

DISCUSSION

Housing in Sunnyvale and the greater Bay Area is marked by high home values and rents. At a minimum, the cost of housing is driven by both the high demand from strong employment growth and the limited housing supply. Unfortunately, a limited supply of housing can result in changes in land use that may leave renters with fewer options for housing. During the Housing Strategy outreach meetings and community workshops in 2019, renters in the community expressed concerns about the rental housing market; specifically, affordability, lack of affordable units, and tenant protections. Although there are current state laws to address some of these items, renters were looking for increased protections and stability.

Existing State Law - AB 1482

Governor Newsom signed Assembly Bill (AB) 1482, which added Sections 1946.2, 1947.12 and 1947.13 to the California Civil Code, to address and create a number of rental housing policies including maximum annual rent increases for certain properties, just cause eviction protections for those evicted due to no-fault of the tenant, and relocation assistance for those displaced. AB 1482 went into effect on January 1, 2020, and sunsets on January 1, 2030. AB 1482 is the basis for the City’s proposed Tenant Protections Ordinance. Below is a summary of AB 1482:

- Rent Cap
 - Places an upper limit on annual rent increases: five percent (5%) plus cost-of-living inflation based on the Consumer Price Index (CPI) up to a maximum of 10 percent (10%) increase each year.
 - Allows only one rent increase over a 12-month period.
 - Rent cap is only applicable to existing tenants, and landlord may increase rent as needed in between tenancies.
 - Exemptions from this rent cap include:
 - Properties issued a Certificate of Occupancy within last 15 years.
 - Single family homes, townhouses, and condominiums, unless owned by a real estate investment trust, corporation or LLC, in which one member is a corporation.
 - Owner-occupied duplexes.
 - Properties subject to more restrictive local rent control ordinances.

- At-Fault Just Cause Eviction Protection
 - Landlords who evict tenants for an at-fault eviction are not required to pay the tenant any type of relocation assistance. Examples of at-fault just causes include:
 - Non-payment of rent.
 - Breach of material lease term.

- Commission of nuisance, waste, or criminal acts on the residential real property.
- Subletting unit in violation of the tenant’s lease.
- Failure to vacate after providing notice.

- No-Fault Just Cause Eviction Protection
 - Events of eviction that are not the fault of the tenant (no-fault) but are a legal cause for eviction are referred to as “no-fault just cause”. In these instances, AB 1482 requires the landlord to provide 30 days’ notice to the tenant and the landlord is required to pay an amount equal to one-month’s rent as relocation assistance. No-fault just causes include:
 - Compliance with an order issued by the government or court, or a local ordinance that requires vacation of the unit (e.g., red tag).
 - Removal of the rental unit from the marketplace.
 - Intent to demolish or substantially remodel the unit.
 - Intent to occupy the residential property or for specified family members of the landlord to occupy the property (for leases entered into on or after July 1, 2020, this clause applies only if the tenant agrees to such termination or if the lease allows for unilateral termination for such occupation).

Outreach

Surveys

Housing staff conducted three surveys to gather input on the tenant protection topics.

1. Local Jurisdictions:

Staff used internal county-wide housing working group meetings to discuss the proposed Ordinance and learn more about neighboring jurisdictions. Attachment 3 provides the results from the survey. The four cities that have existing tenant protection programs (either through Rent Control or another program) include Mountain View, Palo Alto, San Jose, and Milpitas.

2. Stakeholders:

Staff surveyed landlords, property managers, and owners of multifamily rentals to gauge concerns regarding enhanced protections. In all, 714 responses were received. Attachment 4 provides informational results gathered from the survey (see pages 1-3). Attachment 4 also includes merged stakeholder/general comments that staff felt were important to show together (see pages 7-8).

3. General Public/Tenants:

The City received 261 responses from renters in Sunnyvale and/or members of the public. Attachment 4, pages 4-6, provides informational results gathered from the survey. As stated above, pages 7-8 of Attachment 4 are merged stakeholder/general comments that staff felt were important to show together.

Outreach Meetings

Staff held three outreach meetings: two for stakeholders and one for the general public/tenants.

Feedback from the stakeholders’ outreach meeting includes:

- Current State Law provides adequate protection for tenants.
- Smaller property owners generally charge rents below market rates and that having to pay two or three times the fair market rent for Santa Clara County for a no-fault just cause eviction would create a financial burden.
- Smaller property owners are already assisting the community by not charging market rate rents.
- Sunnyvale's new Ordinance should keep the State's requirement regarding relocation after the initial 12 months of residency.
- Only moving cost support should be considered if a landlord or property owner can provide a "like unit" within a reasonable distance of the current property.
- It could be overly burdensome on landlords and property owners by creating additional steps in the leasing process.
- It would create an issue for renters and owners who are looking to rent a room(s) in their home for a short period, typically three months and who are not in the short-term rental business, similar to Airbnb and VRBO.

The feedback from the general public/tenants outreach meeting was that:

- Increased protections for renters are needed.
- More than one month's rent would be needed to pay for relocation assistance.
- It may be difficult to find a similar type of rental at the same rate in Sunnyvale.
- It should be the City's responsibility to educate property owners and landlords on any new right to lease requirements.

Attachment 5 contains all correspondence received by the public as a result of the surveys and outreach meetings.

Draft Ordinance

Staff considered many options to craft an ordinance (Attachment 6) to ensure that the requirements are not overly burdensome to landlords and property owners while ensuring enhanced protections to renters. Using AB 1482 as the basis for the City's proposed Ordinance and considering what neighboring jurisdictions offer in terms of tenant protections, the Ordinance has been drafted to differ from AB 1482 in the following ways:

1. All rental units that received a certificate of occupancy (COO) within the last fifteen (15) years shall be subject to the City's Tenant Protections Ordinance.
 - Current state law exempts units that have been built within 15 years.
 - The City Ordinance will parallel all the other state exemptions.
2. Relocation assistance for tenants residing in a subject rental unit shall receive relocation

assistance equal to two months of rent.

- Current state law is one (1) month's rent.
- It should be noted that at the September 2022 HHSC meeting, the Commission recommended relocation assistance equal to one (1) month. Staff is recommending two months relocation assistance based on: high costs of moving and related expenses associated with new rental deposits, neighboring cities require similar or higher assistance, and feedback from tenant population.

The right to lease portion of the Ordinance includes:

1. Landlords shall be required to offer a one (1) year lease to all new tenants. If the tenant rejects a one-year lease, then the landlord may offer a shorter-term lease, including month to month.
2. Tenants with month to month leases in place prior to the effective date of the Tenant Protections Ordinance shall have 120 days from the effective date of the Ordinance to request a one (1) year lease from their landlord.
3. Leases offered by landlords for a one (1) year term shall be substantially similar to all shorter-term lease offerings.

Tenants may use the Ordinance as the basis of a private civil action or a defense to a wrongful detainer action. The City would not issue citations or bring legal action to enforce the Ordinance on behalf of tenants.

FISCAL IMPACT

No direct impact to the General Fund is anticipated with adoption of the proposed Ordinance. The Housing Division will continue to use federally and locally funded tenant/landlord mediation and fair housing services to support Sunnyvale residents impacted by this new Ordinance.

PUBLIC CONTACT

Public contact was made by posting the Housing and Human Services Commission agenda on the City's official-notice bulletin board outside City Hall and by making the agenda and staff report available on the City's website.

ALTERNATIVES

Recommend that the City Council:

1. Introduce an Ordinance (Attachment 6) to add Chapter 19.71 (Residential Tenant Protections Ordinance) to Title 19 ("Zoning") of the Sunnyvale Municipal Code creating a Residential Tenant Protections Programs.
2. Introduce an Ordinance to add Chapter 19.71 (Residential Tenant Protections Ordinance) to Title 19 ("Zoning") of the Sunnyvale Municipal Code creating a Residential Tenant Protections Programs with modifications.
3. Do not introduce an Ordinance and provide direction to staff.

Housing and Human Services Commission Recommendation

4. Introduce an Ordinance to add Chapter 19.71 (Residential Tenant Protections Ordinance) to Title 19 ("Zoning") of the Sunnyvale Municipal Code creating a Residential Tenant Protections

Program with the following modifications: language clarifying that relocation assistance would be available only to those named on the lease; only one month of relocation assistance would be required; and language asserting that relocation assistance would not vary based on income of tenant(s).

RECOMMENDATION

Alternative 1: Recommend that the City Council introduce an Ordinance (Attachment 6 to the report) to add Chapter 19.71 (Residential Tenant Protections Ordinance) to Title 19 (“Zoning”) of the Sunnyvale Municipal Code creating a Residential Tenant Protections Programs.

Alternative 1 meets the City’s goal of providing enhanced tenant protections while being cognizant of the landlords and property owners who already provide affordable housing in terms of affordable market rate rent. Additionally, the proposed Ordinance would provide tenants and landlords/property owners with the stability and clarity that were identified in the Study Issue. While the Housing and Human Services Commission recommendation provides protection for valid tenants identified on the lease, staff continues to recommend Alternative 1 to ensure the extent of substantial relocation costs can be covered by the proposed two-month relocation assistance.

Prepared by: Ernie Defrenchi, Affordable Housing Manager
Reviewed by: Shaunn Mendrin, Planning Officer
Reviewed by: Jenny Carloni, Housing Officer
Reviewed by: Trudi Ryan, Director, Community Development
Reviewed by: Teri Silva, Assistant City Manager
Approved by: Kent Steffens, City Manager

ATTACHMENTS

1. Reserved for Report to Council
2. Excerpt of Final Minutes of the Housing and Human Services Commission Meeting of September 21, 2022
3. Survey Results - Surrounding Jurisdictions
4. Survey Results - Stakeholders/General Public
5. Correspondence Received from the Public
6. Draft Ordinance
7. Excerpt of Draft Minutes of the Housing and Human Services Commission Meeting of March 22, 2023