



REPORT TO CITY COUNCIL

Approved by:



Arnaldo Rodriguez, City Manager

Council Meeting of: November 20, 2019

Agenda Number: F-1

SUBJECT:

Discussion and Consideration of Options Relating to Tenant Evictions:

- Direction to Staff Relating to Tenant Evictions
- Consider Adopting an Urgency Ordinance of the City Council of the City of Madera Adding Chapter 17 to Title IV of the Madera Municipal Code Relating to Temporary No Fault Evictions Through December 31, 2019

RECOMMENDATION:

1. Staff seeks direction from Council on options of:
 - a. Communicating with Madera City tenants that legal resources are available to them such as California Rural Legal Assistance (CRLA), Central California Legal Services (CCLS), and the Madera Bar Association, as they navigate changes in their lease terms which may present hardships.
 - b. Communicating with property owners and landlords of their obligations under AB 1482.
 - c. Other direction.
2. If Council wishes to adopt an emergency ordinance, the City Council (Council) may read by title only, waive full reading, and adopt by title only "An Urgency Ordinance of The City Council of The City of Madera Adding Chapter 17 to Title IV of the Madera Municipal Code Relating to Temporary No Fault Evictions Through December 31, 2019." **(Requires 6 Votes)**

DISCUSSION:

Background

At the November 6, 2019, regular meeting, the Council heard from residential tenants who had received 60-day eviction notices, as well as from other community members and groups, regarding their desire for the City to address the evictions. Council directed staff to place an item on this agenda for consideration of options including a potential ordinance.

Current Statewide Tenant Legal Protections

Tenants currently have some statewide legal protections regarding rent increases or no cause evictions. Many tenants are not aware of their rights, may not have legal counsel, or may not feel comfortable challenging their landlord. For example, current state law regarding notices of termination without cause (no-fault evictions) provides exact requirements to end a tenancy. If a tenant has lived in the rental unit for over one year and is on a month-to-month lease, then the landlord must provide the tenant a written 60-day notice to end tenancy. The notice must inform the tenant that the tenancy will expire at the end of the notice period and the tenant must move out of the rental unit by that time. The only other option for a landlord to legally evict a tenant in California is by going through the courts and winning an eviction lawsuit, also known as an unlawful detainer suit. Even after winning the eviction lawsuit, the landlord must use a sheriff to actually perform the eviction. California law has made it illegal for the landlord to personally remove the tenant from the rental unit.

California State Assembly Bill 1482

On September 11, 2019, California State Assembly Bill 1482 (AB 1482) passed the Legislature. On October 8, 2019, the Governor signed the bill into law. AB 1482 becomes effective on January 1, 2020.

In short, AB 1482 will:

- Limit annual rent increases across the state to a 5 percent cost of living adjustment, or 10 percent of the rent, whichever is lower; and
- Prohibit an owner from terminating a tenancy without just cause if the tenant has lived in a unit for 12 months or more.
- Additionally, if rents were increased after March 15, 2019, the rent on January 1, 2020 is reduced to the rent as of March 15, 2019, plus the maximum increase allowed by AB 1482.

AB 1482 implements two concurrent protections on applicable units: (1) a cap on rent increases and (2) just cause eviction protection, which includes providing a one-month rent payment for relocation assistance when a landlord terminates a lease through no fault of the tenant. The relocation payment is paid without regard to a tenant's income or other characteristics.

As to the process for evictions, there are two categories of just cause: (1) at-fault causes and (2) no-fault causes. The following is a synopsis of each.

1. At-fault Causes include failure to pay rent, breach of lease, criminal activity at the property or against the owner, assignment and subletting in violation of the lease, and refusal to allow the owner to enter the property.
2. No-fault Causes include owner occupancy, occupancy of the unit by certain members of the owner's family, withdrawal of the unit from the market, complying with a government order related to habitability of the building, and intent to demolish or substantially remodel the property. AB 1482 requires that property owners provide tenants with one month's rent as relocation assistance in the event of a no-fault termination. At least one lawsuit has been filed challenging this provision of AB 1482.

AB 1482 is silent regarding enforcement. Presumably, tenants may raise the lack of a just cause for eviction, or a refusal to pay an excessive rent increase, as an affirmative defense to eviction, but this is not stated. Tenants may be able to bring a civil action against a landlord for violation of the rent cap, but again, the law is silent.

Options

Staff has identified the following options that Council may consider and Council may consider additional options at the meeting:

1. Communicate with Madera City tenants that legal resources are available.
2. Advise property owners and landlords of their obligations under AB 1482.
3. Adopt an Urgency Ordinance which would be effective through December 31, 2019.

As to the first two options, the City could direct tenants to legal service providers that assist tenants. They may be able to advocate for the tenants or help tenants advocate for themselves more efficiently. The City could post the AB 1482 requirements on its website or send notice of it in its utility billing.

As to an urgency ordinance, such an ordinance may be adopted at this meeting after consideration and deliberations. Government Code Section 36937 requires an urgency ordinance to be passed by a four fifths (4/5) vote of the City Council which means **six (6) votes are required in order for a 7-member Council to pass the urgency ordinance**. It would be effective immediately.

The City Attorney has prepared the attached Ordinance that would add Chapter 17 to Title IV of the Madera Municipal Code to temporarily prohibit no-fault evictions through December 31, 2019, which will be covered by AB 1482 beginning on January 1, 2020. The draft Ordinance would apply to an eviction notice served on a tenant if, on the effective date of the Ordinance, the tenant remains in possession of the property and the period of notice has not expired. The Ordinance would render void any eviction notice that did not comply with the Ordinance, and would provide an affirmative defense to a tenant in an unlawful detainer proceeding. We note that after October 31, 2019, any no-fault eviction notice would be subject to AB 1482 because AB 1482 takes effect in prior to the end of the 60-day period.

ATTACHMENTS:

1. Urgency Ordinance adding Chapter 17 to Title IV of the Municipal Code relating to temporary no-fault evictions through December 31, 2019 for residential real property

ORDINANCE NO. 19-_____

**AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MADERA
ADDING CHAPTER 17 TO TITLE IV OF THE MADERA MUNICIPAL CODE RELATING
TO TEMPORARY NO-FAULT EVICTIONS THROUGH DECEMBER 31, 2019, FOR
RESIDENTIAL REAL PROPERTY**

THE CITY COUNCIL OF THE CITY OF MADERA DOES ORDAIN AS FOLLOWS:

SECTION 1. Chapter 17 is added to Title IV of the Madera Municipal Code to read as follows:

CHAPTER 17: TEMPORARY NO FAULT EVICTIONS

Section

4-17.01	PURPOSE
4-17.02	FINDINGS
4-17.03	DEFINITIONS
4-17.04	PROHIBITION ON EVICTIONS
4-17.05	APPLICATION
4-17.06	SEVERANCE

Section 4-17.01 PURPOSE.

On October 8, 2019, the California legislature passed Assembly Bill 1482 (“AB 1482”), the Tenant Protections Act on 2019, to address a component of California’s affordable housing crisis by preventing rent gouging and arbitrary evictions. AB 1482 becomes effective on January 1, 2020.

Rapidly escalating real estate values provide an incentive to landlords to evict long-term, lower-income tenants, without cause, to raise rents and attract wealthier tenants, before AB 1482 becomes effective. City of Madera tenants have already reported experiencing no-fault eviction notices and threats of eviction. Therefore, it is imperative that the City implement temporary strategies to keep people housed.

This Chapter will temporarily prohibit no-fault evictions through December 31, 2019, for residential real property that will be covered by AB 1482 beginning on January 1, 2020.

Section 4-17.02 FINDINGS.

The City Council finds and declares:

- (A) The City of Madera like the rest of California cities is experiencing a crisis of homelessness and displacement of renters of unprecedented levels.

- (B) The California legislature passed the Tenant Protection Act of 2019, Assembly Bill 1482 (“AB 1482”) an act adding and repealing Sections 1946.2, 1947.12, and 1947.13 of the California Civil Code, effective beginning January 1, 2020, which prohibits evictions without “just cause” and owners of residential rental property from increasing rents each year more than 5 percent plus the percentage change in the cost of living or 10 percent, whichever is lower.
- (C) AB 1482 will provide renter protections to households in the City of Madera.
- (D) Currently, the City of Madera does not regulate the reasons for evictions from residential rental housing.
- (E) Community members, tenant associations, and advocates have reported a dramatic rise in landlords serving no-cause 60-day notices to entire buildings of long-term tenants after the enactment date of AB 1482.
- (F) The City of Madera wishes to protect renters from no-fault evictions through December 31, 2019, in advance of AB 1482’s effective date, to prevent further homelessness and displacement.
- (G) The eviction protections of AB 1482 are not retroactive, and do not take effect until January 1, 2020.
- (H) The City of Madera would suffer potentially irreversible displacement of tenants resulting from no-fault evictions during the period before AB 1482 becomes effective.

Section 4-17.03 DEFINITIONS. The following words and phrases, whenever used in this chapter, shall be construed as defined in this section.

- (A) Owner. The term “owner” is any person, acting as principal or through an agent, offering residential real property for rent, and includes a predecessor in interest to the owner.
- (B) Residential real property. The term “residential real property” is any dwelling or unit that is intended or used for human habitation.

Section 4-17.04 PROHIBITION ON EVICTIONS.

- (A) Through December 31, 2019, the owner of residential rental property shall not terminate a lawful tenancy without at-fault just cause, unless the termination is required to comply with an order issued by a government agency or court of law necessitating vacating the residential real property or to comport with due process, federal, or state law, which shall be stated in the written notice of termination of

tenancy. This prohibition shall also apply to an owner's action that constitutes constructive eviction under California law. An owner's failure to comply with this chapter shall render any notice of termination of tenancy void. This chapter may be asserted as an affirmative defense in an unlawful detainer action. An owner's failure to comply with this chapter does not constitute a criminal offense.

(B) At-fault just cause is any of the following:

- (1) Default in the payment of rent.
- (2) A breach of a material term of the lease, as described in paragraph (3) of Section 1161 of the California Code of Civil Procedure, including, but not limited to, violation of a provision of a lease after being issued a written notice to correct the violation.
- (3) Maintaining, committing, or permitting the maintenance or commission of a nuisance as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
- (4) Committing waste as described in paragraph (4) of Section 1161 of the Code of Civil Procedure.
- (5) The tenant had a written lease that terminated on or after January 1, 2020, and after a written request or demand from the owner, the tenant has refused to execute a written extension or renewal of the lease for an additional term of similar duration with similar provisions, provided that those terms do not violate this section or any other provision of law.
- (6) Criminal activity by the tenant on the residential real property, including any common areas, or any criminal activity or criminal threat, as defined in subdivision (a) of Section 422 of the California Penal Code, on or off the residential real property against the owner of the residential real property.
- (7) Assigning or subletting the premises in violation of the tenant's lease, as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
- (8) The tenant's refusal to allow the owner to enter the residential real property as authorized by Sections 1101.5 and 1954 of the California Civil Code, and Sections 13113.7 and 17926.1 of the California Health and Safety Code.
- (9) Using the premises for an unlawful purpose as described in paragraph (4) of Section 1161 of the California Code of Civil Procedure.
- (10) The employee, agent, or licensee's failure to vacate after their termination as an employee, agent, or a licensee as described in paragraph (1) of Section 1161 of the California Code of Civil Procedure.
- (11) When the tenant fails to deliver possession of the residential real property after providing the owner written notice as provided in Section 1946 of the California Civil Code of the tenant's intention to terminate the hiring of the

real property, or makes a written offer to surrender that is accepted in writing by the owner, but fails to deliver possession at the time specified in that written notice as described in paragraph (5) of Section 1161 of the California Code of Civil Procedure.

(C) This chapter shall not apply to any of the following residential real property or residential circumstances:

- (1) Transient and tourist hotel occupancy as defined in subdivision (b) of Section 1940 of the California Civil Code.
- (2) Housing accommodations in a nonprofit hospital, religious facility, extended care facility, licensed residential care facility for the elderly, as defined in Section 1569.2 of the Health and Safety Code, or an adult residential facility, as defined in Chapter 6 of Division 6 of Title 22 of the Manual of Policies and Procedures published by the State Department of Social Services.
- (3) Dormitories owned and operated by an institution of higher education or a kindergarten and grades 1 to 12, inclusive, school.
- (4) Housing accommodations in which the tenant shares bathroom or kitchen facilities with the owner who maintains their principal residence at the residential real property.
- (5) Single-family owner-occupied residences, including a residence in which the owner-occupant rents or leases no more than two units or bedrooms, including, but not limited to, an accessory dwelling unit or a junior accessory dwelling unit.
- (6) A duplex in which the owner occupied one of the units as the owner's principal place of residence at the beginning of the tenancy, so long as the owner continues in occupancy.
- (7) Housing that has been issued a certificate of occupancy within the previous 15 years.
- (8) Residential real property that is alienable separate from the title to any other dwelling unit, provided that the owner is not any of the following:
 - (a) A real estate investment trust, as defined in Section 856 of the Internal Revenue Code.
 - (b) A corporation.
 - (c) A limited liability company in which at least one member is a corporation.
- (9) Housing restricted by deed, regulatory restriction contained in an agreement with a government agency, or other recorded document as affordable housing for persons and families of very low, low, or moderate income, as

defined in Section 50093 of the Health and Safety Code, or subject to an agreement that provides housing subsidies for affordable housing for persons and families of very low, low, or moderate income as defined in Section 50093 of the Health and Safety Code or comparable federal statutes.

Section 4-17.05 APPLICATION. This chapter shall apply to tenancies where the tenant remains in possession and the period of notice required under California Civil Code Section 1946.1 has not expired.

Section 4-17.06 SEVERANCE. If any section, subsection, phrase, or clause of this chapter is for any reason held to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of this chapter.

SECTION 2. CEQA. The City Council finds this ordinance is not a project under the California Environmental Quality Act because it can be seen with certainty that it will not have a significant effect or physical change to the environment. See Title 14, California Code of Regulations, Section 15061 (b) (3).

SECTION 3. PUBLICATION. This ordinance shall be published in accordance with the provisions of Government Code Section 36933.

SECTION 4. EMERGENCY FINDINGS. The findings set forth in this ordinance in Section 4-17.02 constitute a declaration of facts constituting an immediate preservation of public health and safety. Moreover,

SECTION 5. EFFECTIVE DATE. This ordinance is an emergency ordinance for the immediate preservation of the public peace, health, and safety and shall become effective immediately upon its adoption per Government Code Section 36937.

The foregoing ordinance was adopted at a regular meeting of the City Council of the City of Madera held on November 20, 2019, by the following vote: