



SAN RAFAEL CITY COUNCIL AGENDA REPORT

Department: City Manager's Office

**Prepared by: Andrew Hening,
Director of Homeless
Planning & Outreach**

City Manager Approval: _____

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TOPIC: RENTER PROTECTIONS

SUBJECT: PROPOSED RENTER PROTECTION POLICIES – MANDATORY MEDIATION AND JUST CAUSE EVICTION

RECOMMENDATION: Accept Informational Report and Provide Direction to Staff.

BACKGROUND:

In fall 2016, the County of Marin started exploring a variety of policies and programs that could address ongoing challenges with discrimination, affordability, and substandard living conditions in Unincorporated Marin's rental housing stock. Unlike the cities and towns in Marin County, the County – through its Community Development Agency – has full-time staff working on housing issues. As a result, many local cities and towns have looked to the County for leadership in this policy area. To-date, the County has adopted the following renter protection measures:

- Source of Income Discrimination (San Rafael has also adopted)
- Mandatory Mediation
- Just Cause Eviction
- Business License Data Collection

The City Council's Goals and Strategies for Fiscal Year 2018-19 include goals around facilitating affordable housing. For example, one strategy is to "Explore protections to increase rental and ownership housing affordability." On August 20, 2018, the Community Development Director provided the City Council with a "Housing Update" report. The City Council provided direction to work on a number of items for future Council consideration. One of these items was as Source of Income Discrimination Ordinance, which the Council considered and approved at the end of 2018. Staff was also directed to return with information regarding proposed ordinances for Mandatory Mediation and Just Cause evictions.

FOR CITY CLERK ONLY

File No.:

Council Meeting:

Disposition:

San Rafael’s Ownership & Rental Markets

In every community there are two housing markets. At the most fundamental level, there is the ownership market for the housing stock itself. According to the City of San Rafael’s 2015-2023 Housing Element, in 2010 San Rafael had 24,011 housing units, which was comprised of 56% single family units, 42% multifamily units, and 2% mobile homes and other units.

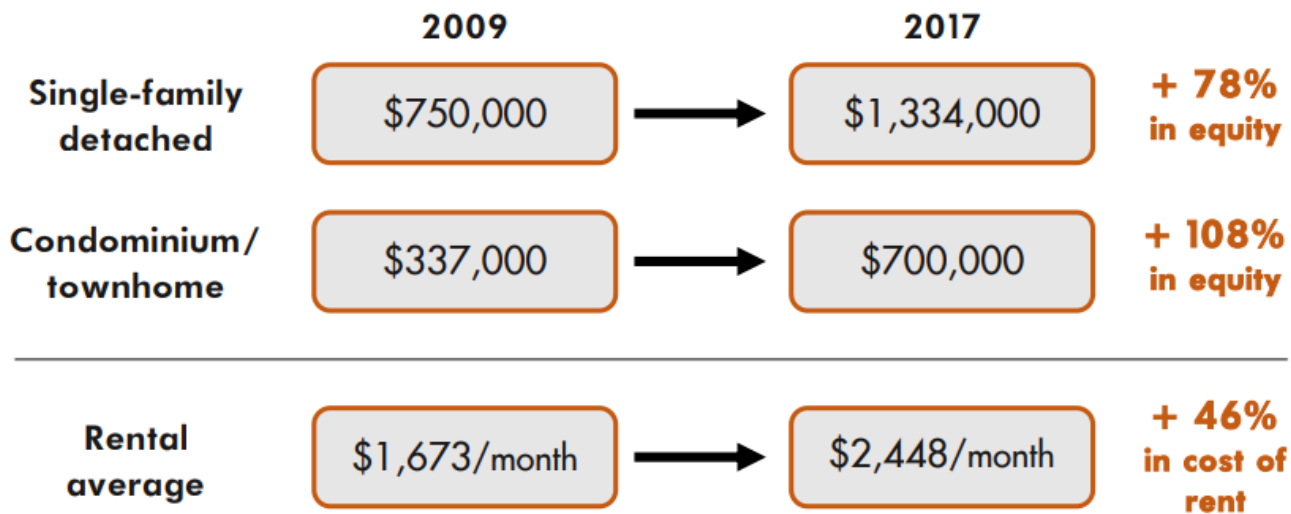
The second market is layered on top of the first; it is the rental housing market. This market results from the fact that among the overall housing stock, every community has its own unique mix of owner-occupied units and for-rent units. According to the 2010 US Census, renter households occupied 48% of San Rafael’s housing units, and owners occupied 52% of housing units.

Over the last ten years, both markets have been impacted by a slowdown in housing creation. 80% of San Rafael’s housing stock was built before 1980. Between 1990 and 2000, San Rafael experienced a 9% growth in housing stock. Growth has further slowed since that time.

Even as housing stock growth has slowed, demand for housing has persisted and increased. In 2013, the Association of Bay Area Governments, which sets regional growth targets through the Regional Housing Needs Allocation (RHNA), forecasted a 5% growth in households in San Rafael for each decade from 2010 to 2040. This growth rate means that San Rafael’s 57,700 residents in 2010 will increase to 68,700 by 2040.

If the rate of new housing creation is lower than the rate of population growth, then supply and demand will continue to diverge, and housing prices – in both the ownership and rental markets – will continue to rise. With that being said, the “consumers” in each market experience these price increases differently. For existing owners, higher prices mean increased equity. By comparison, renters experience increasing prices as just that, higher prices. The County of Marin’s Community Development Agency shared the following infographic at their September 11, 2018 “Preventing Displacement: Rental Housing Workshop.”

Figure 1 – Home Equity vs. Rental Prices in Marin County, 2009-2017



This dynamic reveals a crucially important link between the ownership market and the rental market. If more and more of a household’s income is directed towards increasingly expensive rents, while at the same time the cost of becoming an owner also continues to rise (e.g. the cost of a down payment will continue to rise as prices rise), it becomes increasingly difficult for renters to become owners.

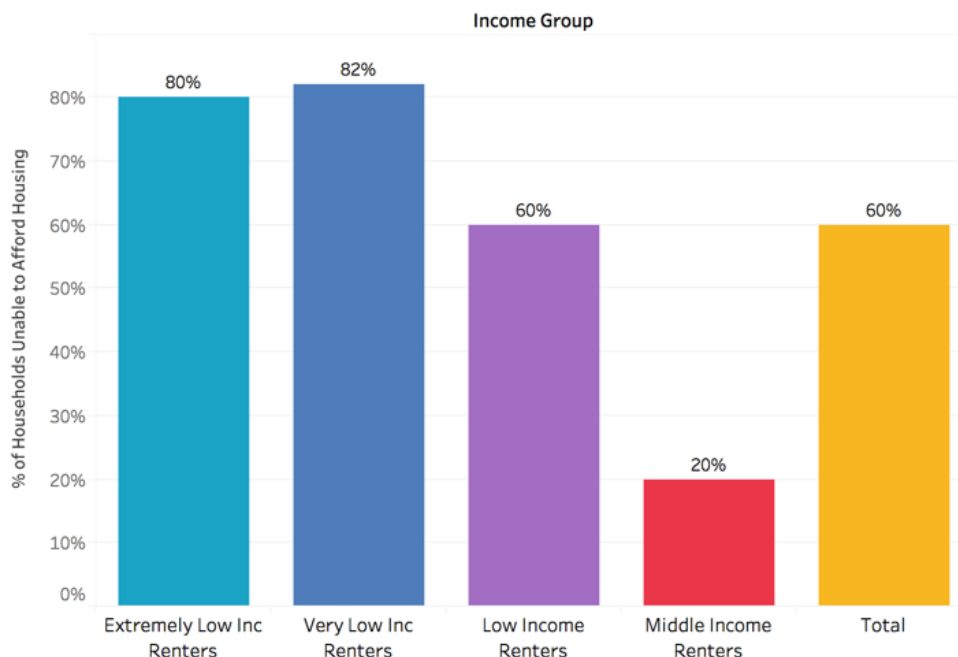
The Challenges for Renters

In discussing “the housing market,” it is easy to conflate the ownership market and the rental market. These two markets are of course interrelated in significant ways, such as the overall consumer demand for housing and the overall supply of housing units. At the same time, each market is shaped by unique policies and challenges. The ownership market, for example, is impacted by construction costs, local zoning, and state regulations (e.g. the California Environmental Quality Act). The rental market, by comparison, is shaped by eviction laws, leasing requirements, and other tenant and landlord protections.

There are a variety of challenges to creating more supply in the ownership market. As a follow up to the San Rafael Community Development Director’s August 20, 2018 “Housing Update” Report, in 2019 Community Development staff will be returning to Council to discuss local “Barriers to Housing Creation.” Additionally, there are a variety of new state laws and funding mechanisms that have been recently adopted or that are currently under consideration in the Legislature, which could also significantly impact the overall housing stock in San Rafael. Whether these changes are occurring at the local or state level, any impact to the housing supply will occur on a medium to long-term time horizon. In the meantime, aside from simply being unable to become owners, there will continue to be urgent challenges for renters in our community.

- **Housing Overpayment** – Housing overpayment, as defined by the state and federal government, refers to spending more than 30% of income on housing. According to a [2018 report](#) from the Marin Economic Forum, the majority of low-income renters in Marin County fall within this definition of housing overpayment (Figure 2).

Figure 2 – Rent Burden by Income Group



- **Low Vacancy Rates** – The vacancy rate refers to the number of available housing units – for sale or rent – available at any given point in time. According to the City of San Rafael’s Housing Element, “A low vacancy rate may indicate that households are having difficulty in finding housing that is affordable, leading to housing overpayment and/or overcrowding.” Additionally, in rental markets with low vacancy rates, tenants without viable housing alternatives might end up choosing to reside in rental units with deficiencies that affect the habitability of the property. The City of San Rafael does have a Housing Inspection Program to get such deficiencies corrected. According to the Marin County Community Development Agency, the rental vacancy rate in Marin County is currently below 3%. A healthy rate is closer to 6 to 7%.
- **Jobs / Housing Imbalance** – According to the San Rafael Housing Element, more than 87% of those employed in San Rafael reside in other cities, which implies a significant jobs / housing imbalance. Affordable workforce housing is needed for those who contribute vital services to the City but whose incomes limit their ability to obtain affordable housing in San Rafael. Examples of workforce occupations priced out of the local housing market include nursing assistants, elementary and high school teachers, and many public employees.
- **Homelessness** – According to [Marin County’s 2017 Homeless Point-in-Time-Count](#), the leading reason people cited for becoming homeless was “economic issues” (42%). According to the same study, currently homeless persons cited the top three forms of assistance needed for exiting homelessness as housing-related: rental assistance (62%), more affordable housing (60%), and money for moving costs (46%). In 2018, fully 100% of the people who have been placed in housing through the Marin County Continuum of Care moved into a rental arrangement, not an ownership arrangement.

ANALYSIS:

Over the last two years the County of Marin has explored and adopted a variety of renter protection measures to address the dilemmas outlined above. A summary of these measures is provided below.

Mandatory Mediation

Mediation is a process in which a neutral third party facilitates the negotiation of a mutually acceptable resolution to a dispute between parties. Mediation programs commonly apply voluntary, private and informal processes.

Some jurisdictions have used the mediation concept to help renters. With “Mandatory” Mediation, if a triggering event occurs (e.g. rent is increased by a certain percentage), then the tenant is able to request mediation services. It is then mandatory that the landlord participates in the mediation process, but the parties cannot be compelled to reach a resolution. Instead, the goal of these programs is to facilitate constructive conversations in a neutral and accountable environment.

The County of Marin has joined a variety of other Bay Area communities in adopting mediation policies to assist renters:

Figure 3 – Bay Area Rental Mediation Programs

Jurisdiction	Palo Alto	Concord	Union City	County of Marin
Program	“Mandatory Response Program”	“Residential Rent Review Program”	“Rent Review”	“Rental Housing Dispute Resolution”
Date of Adoption	December 2001	July 2017	June 2017	December 2017
Parties that Can Initiate	Tenants, owners, property managers	Tenants	Tenants	Tenants, landlords
Reasons to Initiate	Rent increases, repairs, maintenance, deposits	10% rent increase in a 12-month period	7% rent increase in a 12-month period	5% rent increase in a 12-month period
Applicability	Applies to landlords with two or more rental units	Applies to all Concord rental properties with 3 or more units	Applies to all rental units including single family homes / condos; there is an exception for any unit subject to a regulatory agreement (e.g. Section 8, government owned and operated)	Applies to all rental units including single family homes / condos; there is an exception for any unit subject to a regulatory agreement (e.g. Section 8, government owned and operated)
Participation	Voluntary	Mandatory	Mandatory	Mandatory
Administration / Enforcement	Palo Alto Mediation Program	ECHO Housing	ECHO Housing	District Attorney Consumer Protection Unit
Cost to Participants	No cost	No Information Available	No Information Available	No cost

Figure 3 highlights the diversity of policy questions that can shape Mandatory Mediation programs. Some of those questions include:

➤ *When Does Mandatory Mediation Apply?*

Mandatory Mediation can be tailored to address rapid increases in rental housing costs by requiring mediation for rental increases over a specified threshold (e.g. increases of more than five percent (5%) over a twelve-month period could be subject to Mandatory Mediation). In the alternative, Mandatory Mediation can be triggered by any rent increase, or by request from either a landlord or tenant for capital expenses or improvements (e.g. if a landlord replaces the roof and passes the cost through to the tenant, or if a tenant wants to permanently install new laundry facilities).

➤ *What issues are subject to Mandatory Mediation?*

In addition to rent increases, a Mandatory Mediation program can facilitate the constructive resolution of disputes involving “services reductions,” which result when a reduction in the level or amount of tenant benefits or privileges occur without an accompanying fair and corresponding decrease in rent. Examples of common service reductions include the cutback of parking privileges, maintenance or repairs, utilities, or elevator service.

➤ *Are the results of Mandatory Mediation binding?*

If the parties involved come to an agreement, a settlement agreement can be prepared that will bind the parties. However, the parties may not come to an agreement and then there is no “resolution” to comply with. The mediator will not make a decision for the parties unless the parties have specifically agreed to such a process.

➤ *Are anti-retaliation provisions desired?*

Many jurisdictions add anti-retaliation policies to encourage the use of mediation services and prohibit activities that could circumvent the mediation process.

The County of Marin passed Mandatory Mediation legislation in December of 2017, and the law went into effect at the beginning of 2018. Since enacting this legislation, the County of Marin District Attorney Office’s Consumer Protection Unit has mediated 12 cases. On average, there has been one case mediated per month. The outcomes of these cases have been highly variable. For example, in one case the proposed rent increase did not change, but the landlord agreed to a two-year lease. In another example the landlord agreed to rehabbing part of the unit, but the increase stayed in place. In some cases, there were simply no changes.

February 2018: 1 case **Ineligible**

March 2018: 3 cases **2 Ineligible, 1 Eligible: mediation conducted, agreement reached**

April 2018 – 1 case **Eligible: mediation conducted, no agreement reached.**

May 2018 – 1 case **Eligible: mediation conducted, no agreement reached.**

June 2018 – 1 case **Eligible: agreement reached.**

July 2018 – 1 case **Ineligible**

August 2018 – 2 cases **1 Ineligible, 1 Eligible: mediation conducted, agreement reached.**

September 2018: None

October 2018: 1 case **Ineligible**

November 2018: None

December 2018: 1 case **Eligible: mediation conducted, agreement reached.**

County staff believed the relatively low utilization could be occurring for two reasons. On one hand, the low utilization could be explained by the fact that the ordinance was actually working. Citing the “black robe” effect, for many landlords, simply receiving a notice about these new regulations was enough to limit significant recent increases. On the other hand, staff was hearing from renters that price increases were still happening, but tenants were afraid to request mediation services because there was no guarantee that the landlord wouldn’t just evict them after requesting the service. In response to this latter perceived cause, County staff began working with the Board of Supervisors on an additional policy that could alleviate some of that concern.

Just Cause Eviction

Under California law, landlords have the legal right to terminate a periodic tenancy without reason so long as they furnish the tenant proper written notice of termination. For a written notice of termination to be legally sufficient under State law, a residential tenant living in a home for less than one year must be provided with at least 30-days’ written notice; the termination of a tenancy where the tenant has resided in a home for one year or more must be noticed at least 60 days in advance. Landlords can also serve tenants with a three-day written eviction notice for any cause consistent with the California Code of Civil Procedure §1161, such as non-payment of rent or violation of a covenant in the lease. In addition, the Ellis Act allows Californians to withdraw their property from the residential rental market.

Just Cause policies are intended to provide stability for households who rent by regulating the grounds for eviction, typically by prohibiting termination of a residential tenancy without expressly stating the reason. These policies serve to promote greater awareness of the rights and responsibilities of landlords and tenants and provide a clear and transparent process for evictions and lease terminations, particularly when rental agreements do not exist or lack specificity.

Just Cause ordinances have existed in California and the Bay Area since the late 1970s and have recently reemerged as a tool to provide security and stability for households that rent by preventing the termination of residential leases without specific, pre-defined justification. Just Cause ordinances typically identify acceptable reasons that a landlord may terminate a tenancy “for cause” (e.g. failure to pay rent, nuisance behavior), as well as other reasons a landlord could evict for “no cause” (e.g. the landlord is moving back into the unit). Just Cause ordinances fully retain the rights of landlords to terminate a lease for valid reasons, but they also help prevent evictions of responsible tenants, providing them with greater security and stability.

As with Mandatory Mediation policies, there are limits to what Just Cause policies can achieve. Without rent stabilization policies, Just Cause ordinances do not prevent landlords from raising rents. As a result, Just Cause ordinances alone generally do not protect tenants from displacement caused by a landlord raising the rent to an unaffordable level – a process that could be called “economic eviction.” Furthermore, the Ellis Act (California Government Code sections 7060 through 7060.7) places limitations on both the ability of local governments to require a landlord to continue to rent units as well as tenant protections. A landlord is always entitled to permanently remove a rental unit from the housing market, but a Just Cause ordinance can provide a tenant with a right to return to the unit if the property owner decides to rent it again in the future, although potentially at an increased rental amount.

The County of Marin has joined a variety of other Bay Area communities in adopting Just Cause policies to assist renters. Of note, in January of 2019, the Association of Bay Area Governments [adopted](#) a 10-point action plan designed to alleviate the housing crisis in the Bay Area. The “[CASA Compact](#)” includes Just Cause as one of the prescribed policies.

Figure 4 – Just Cause Policies in California

Jurisdiction	Emeryville	Union City	San Diego	County of Marin
Program	“Eviction Harassment Ordinance”	“Residential Landlord and Tenant relations Ordinance”	“Tenants’ Right to Know Regulations”	“Just Cause for Evictions”
Date of Adoption	December 2016	April 2017	March 2004	December 2018

Applicability	Applies to all rental units; exceptions for units with regulatory agreements (e.g. Section 8, government owned and operated) and owner-occupied units	Applies to all rental units; exceptions for units with regulatory agreements (e.g. Section 8, government owned and operated) and owner-occupied units	Tenants with at least two years of tenancy	Properties containing at least three dwelling units; exceptions for units with regulatory agreements (e.g. Section 8, government owned and operated) and accessory dwelling units and junior second units
Business License Requirement	Yes	Yes	No	Yes
Noticing Required to the Tenant	Yes	Yes	Yes	Yes
Copy of eviction notice sent to the City / County	Yes	No	No	Yes
Reasons for Eviction	Failure to pay rent; breach of rental contract; tenant illegal activities; violations of the health and safety code; failure to allow landlord access; tenant rejected written lease extension; tenant violated occupancy restriction; landlord returning from sabbatical to occupy unit; landlord returning from deployment; landlord condominium conversion	Failure to pay rent; breach of rental contract; tenant illegal activities; violations of the health and safety code; tenant rejected written lease extension; unit will be substantially renovated because it could become unfit for human habitation; landlord returning from deployment; landlord condominium conversion; landlord will remove the unit from the market; landlord or family will move into the unit	Failure to pay rent; breach of rental contract; tenant illegal activities; nuisance; refusal to renew lease; refusal to provide access; correction of violations; withdrawal of unit from the rental market; landlord or family will move into the unit	Failure to pay rent; breach of rental contract; tenant illegal activities; threat of violent crime; nuisance behavior
No fault reasons for eviction	Landlord will remove unit from the market; landlord or family will move into unit; unit is temporarily unfit for human habitation;	----	----	Landlords will permanently remove unit from the rental market; landlord or family will move into the unit; substantial

	unit will be substantially renovated			rehabilitation for health and safety
Relocation assistance required	Yes – for no fault evictions (except in the case of natural disasters beyond the Landlord's control)	No	No	No
Anti-harassment and retaliation language	Yes	Yes	No	Yes

Figure 4 highlights the diversity of policy questions that can shape Just Cause programs. Some of those questions include:

➤ *What Constitutes “Just Cause”?*

Acceptable reasons for eviction under Just Cause are often divided into two categories: “For Cause” and “No Fault.” Examples of eviction For Cause include failure to pay rent, illegal activity in the unit, nuisance activities, or other material violations of a rental agreement. Example of No Fault evictions include situations when an owner or relative moves into the unit or removes the unit from the rental market under the Ellis Act. Some jurisdictions specify events that are not grounds for eviction, such as an owner undergoing foreclosure proceedings.

➤ *Can relocation assistance be required in connection with No Fault evictions?*

Just Cause ordinances can include provisions to help offset relocation costs for tenants in certain scenarios. For example, the City of Emeryville requires landlords to pay relocation assistance when they decide to move back into or renovate a unit, which requires a tenant to move out.

➤ *What data, if any regarding evictions can be collected?*

Data can also be collected on evictions and lease terminations through a Just Cause ordinance. Some jurisdictions require notice prior to every eviction while others require notices only for specific No Fault evictions and others don’t require the jurisdiction to collect data at all. To better understand the local rental market, some jurisdictions also require landlords to provide notice of the applicable monthly rent at the time of eviction or applicable rents charged over some course of the tenancy. As the City of San Rafael does not have a Housing Department or staff available to actively monitor evictions and lease terminations, it would need to be determined what data is being collected, for what purpose, and how time-intensive is the collection and analysis.

➤ *What, if any, requirements and exemptions apply?*

In some Bay Area jurisdictions, Just Cause protections are triggered only by code violations; they prevent a landlord from a evicting a tenant without cause for a period following the submission of a formal tenant complaint to the local agency code enforcement staff. The City of San Jose originally adopted a Just Cause ordinance with tenant protection based on code violations, but found it was difficult to enforce and had limited impact, therefore, they opted to revise and expand

the scope of their ordinance to reflect more typical penalty mechanisms for enforcement. Other alternatives include exemptions for specific units (e.g. single family and duplex units) or prerequisites for enrollment in Just Cause protections (e.g. tenancy in the same unit for two consecutive years).

With respect to administration and enforcement, if the City of San Rafael adopted Just Cause for Eviction, the administration and enforcement would be similar to what is happening with the Source of Income Ordinance. If a tenant felt that they had been improperly evicted, either independently or with the help of a local legal advocate like Legal Aid of Marin or Fair Housing Advocates of Northern California, they could bring the matter before the civil court system. As mentioned above with Mandatory Mediation, if a tenant contacted the City (currently all renter protection-related inquiries are being directed to the Director of Homeless Planning & Outreach), staff would direct the party in question to one of these local resources. There would also be the front-end requirement to create marketing materials and support documentation, and cities can opt to receive copies of any eviction notices that occur under Just Cause, so there would be an administrative impact to collect and retain these documents.

As the County of Marin worked towards passing Just Cause Eviction, they held a number of public outreach meetings. During these meetings, some landlords and property owners expressed concerns that the limits on evictions established by Just Cause regulations might discourage investment in rental property, increasing operating costs and rental prices, and make it more difficult to remove problematic tenants. Landlords have also expressed concern that adoption of a Just Cause ordinance could foretell a future rent stabilization ordinance. Landlord organizations also pointed to existing laws that protect renters from arbitrary or unreasonable evictions. For example, State law prohibits renters from being evicted in retaliation for exercising protected rights such as filing a complaint about unsafe or unhealthy living conditions.

Policy Considerations and Direction

As this report is informational, there is no formal City Council action required at this time. Instead, staff is looking to the City Council for feedback on the proposed rental protection policies and for the City Attorney's office to complete a thorough analysis of those proposed policies. Overall, staff recommends that the City Council consider directing staff to further research and return with proposed rental policies and protections potentially modeled after the County of Marin.

Should the Council wish to proceed with a Mandatory Mediation and a Just Cause Ordinance, there are a number of key policy issues that would need to be determined. For example, the County required property owners covered by Just Cause to obtain a business license and to provide data to help illustrate the rental market and evictions specifically. For the City, without current staff performing such functions, we would need to determine: who should collect data, what kind of data, how will it be used, and what resources exist to analyze the data so that it is useful.

Another issue relates to administration and enforcement of Mandatory Mediation, including how it is funded. The City does not currently offer in-house mediation services, nor does it have an on-going funding source to pay for such a new service. There would also need to be some front-end work to provide an explanation of the process on the City's website and to create any required support documentation. As an example, the City of Concord's marketing materials are included as Attachment 1.

Lastly, since its introduction in the early 1980s, mediation has become a popular and effective tool for resolving disputes that might otherwise end up in court. In the typical mediation model, the mediation is voluntary – not mandatory -- and the cost is equally shared by both parties. Making mediation mandatory and/or imposing the cost on only one party would require further study by the City Attorney's office to

investigate the potential consequences. Also, mediation requires three parties (including the mediator) to be present. If mediation is mandatory, scheduling challenges could have unintended consequences on the unlawful detainer court process, which tends to be an expedited process. This legal analysis will need to be completed prior to coming back to the City Council.

In conclusion, the two policies described above address different issues for landlords and tenants: Mandatory Mediation may help alleviate disputes regarding significant rent increases, while Just Cause protections identify acceptable reasons for eviction. Because each policy addresses different but related issues, in considering both policies together, the City Council could have a more significant impact than simply passing one measure by itself.

Staff is seeking overall City Council feedback on the adoption of Mandatory Mediation and Just Cause eviction. If the City Council is interested in further pursuing these policies, staff recommends that the City Council consider directing staff to further research these items and to return with proposed rental policies and protections potentially modeled after the County of Marin.

Should the Council desire, you may wish to consider appointing a temporary, ad-hoc City Council Subcommittee to work with staff on these issues, similar to the recent ad-hoc subcommittee on small cell wireless facilities.

PUBLIC OUTREACH: Staff has conducted preliminary public outreach on this matter. On January 10, 2019, the Director of Homeless Planning & Outreach, the Code Enforcement Manager, and a Code Enforcement Officer attended a community meeting in the Canal that was hosted in Spanish and attended by over 100 residents. There was unanimous support for these policies.

Additionally, a courtesy meeting notice was sent to the following organizations: Marin County Community Development Agency, the Marin County Housing Authority, the League of Women Voters, EDEN Housing, Marin Environmental Housing Collaborative, Sustainable Marin, Sustainable San Rafael, Fair Housing of Marin, Marin Builders Association, Public Advocates, Inc., Legal Aid of Marin, Marin Association of Realtors, Community Action Marin, Canal Alliance, the San Rafael Chamber of Commerce, the Downtown San Rafael Business Improvement District, Marin Continuum of Housing, the Housing Crisis Action Group, Aging Action Initiative, the Homeless Policy Steering Committee, Ritter Center, St. Vincent's, Homeward Bound, Buckelew Programs, the Marin Center for Independent Living, the Marin Organizing Committee, and the Federation of San Rafael Neighborhoods.

The Director of Homeless Planning & Outreach sent a newsletter about renter challenges to the Homeless Initiatives Newsletter distribution (approximately 3,000 subscribers), and this item was noticed in the City Manager's Bi-Weekly Snapshot newsletter. Based on City Council direction, staff is prepared to conduct additional public outreach on this item.

FISCAL IMPACT: There is no fiscal impact for this informational report. There are currently unknown costs should the City Council adopt a Mandatory Mediation Ordinance as the mediation service and number of mediations is unknown. There are no direct administrative costs required for the primary requirements of a Just Cause Ordinance, though there will be a time commitment from staff to create the front-end public education materials about the new process.

RECOMMENDED ACTION: Provide comments and feedback to staff.

ATTACHMENTS:

1. Concord Mandatory Mediation Flier
2. County of Marin Just Cause Ordinance
3. County of Marin Mandatory Mediation Ordinance



Residential Rent Review Program

Welcome to the Residential Rent Review Program!

If you have been notified about a rent increase of more than 10% in a 12-month period, this Program could possibly help you negotiate a lower rent increase.

To see if the Residential Rent Review Program can help you, please contact ECHO Housing at 1-855-275-3246 or ConcordRentReview@echofairhousing.org

Program Highlights

- Applies to **all Concord rental properties with 3 or more rental units**. Exceptions apply.
- Landlords must provide tenants with City of Concord's **Notice of Availability of Rent Review Required** for the Residential Rent Review Program at the same time as a rent increase notice in order to inform tenants of the Program in writing. **If the notice is not provided at the same time as the rent increase notice, the rent increase is not allowed** at that time. A copy of this notice can found at: www.cityofconcord.org/Housing
- Landlords must provide tenants with 30 days' notice prior to a rent increase of 10% or less, and 60 days' notice prior to a rent increase of more than 10%.
- Participation in the Residential Rent Review Program is voluntary for tenants, but is mandatory for property owners.

*** Does your apartment need repair? The City of Concord also has a Multi-Family Inspection Program which helps Concord tenants live in safer, healthier and better kept multi-family housing. We look inside and outside of the unit and identify basic maintenance items such as smoke and CO2 alarms, electrical safety, sanitation and conditions of doors and windows. For more information, please contact the Multi-Family Inspection Program at (925) 671-3408 or www.cityofconcord.org/MFIP***

Resources

Residential Rent Review Program/ Fair Housing– ECHO Housing 1-855-275-3246 or ConcordRentReview@echofairhousing.org

Residential Rent Review Ordinance– <http://www.codepublishing.com/CA/Concord>

Eviction/Legal Issues– Bay Area Legal Aid (925) 219-3325

Landlords– California Apartment Association 1-800-967-4222 or caanet.org

City of Concord Multi-Family Inspection Program- (925) 671-3408 or www.cityofconcord.org/MFIP

City of Concord Housing Division

Concord Administration Building
1950 Parkside Drive MS / 10A
Concord, CA 94519

Phone: (925) 671-3387

Email: Sophia.Sidhu@cityofconcord.org

Website: www.cityofconcord.org/Housing





Programa de Evaluación de Rentas Residenciales

Bienvenido al Programa de Evaluación de Rentas Residenciales

Si le han notificado sobre un aumento de su renta que es más de 10% en un período de 12 meses, este programa podría ayudarle a negociar un aumento de renta más bajo.

Para ver si el programa de Evaluación de Rentas Residenciales puede ayudarle, por favor comuníquese con "ECHO Housing" al 1-855-275-3246 o por correo electrónico al ConcordRentReview@echofairhousing.org

Aspectos destacados del programa

- Se aplica a **todas las propiedades de alquiler de Concord con 3 o más unidades de alquiler**. Se aplican excepciones.
- Los propietarios deben proporcionar a los inquilinos el **Aviso de disponibilidad de evaluación de renta requerido por la Ciudad de Concord** para el programa de evaluación de rentas residenciales al mismo tiempo que un aviso de aumento de renta para informar a los inquilinos del programa por escrito. **Si el aviso no se proporciona al mismo tiempo que el aviso de aumento de renta, el aumento de renta no está permitido** en ese momento. Se puede encontrar una copia de este aviso en: www.cityofconcord.org/Housing
- Los propietarios deben proporcionar a los inquilinos un aviso con 30 días de anticipación antes de un aumento de renta de 10% o menos, y un aviso de 60 días antes de un aumento de renta que es más de 10%.
- La participación en el Programa de Evaluación de Rentas Residenciales es voluntaria para los inquilinos, pero obligatoria para dueños de propiedades/propietarios.

¿Necesita reparar su apartamento? La ciudad de Concord también tiene un Programa de Inspección Multifamiliar que ayuda a los inquilinos de Concord a vivir en viviendas multifamiliares más seguras, saludables y mejor conservadas. Para más información, por favor póngase en contacto con el Programa de Inspección Multifamiliar al (925) 671-3408 o www.cityofconcord.org/MFIP

Recursos

Evaluación de Rentas Residenciales-
"ECHO Housing" 1-855-275-3246 o
ConcordRentReview@echofairhousing.org

Ordenanza de Evaluación de Rentas Residenciales-
<http://www.codepublishing.com/CA/Concord>

Desalojo/Asuntos Legales- Ayuda Legal del Área De la Bahía ("Bay Area Legal Aid")
925-219-3325

Propetarios- Asociación de Apartamentos de California 1-800-967-4222 o caanet.org

Programa de Inspección Multifamiliar de la Ciudad de Concord - (925) 671-3408
o www.cityofconcord.org/MFIP

Cuidad de Concord División de Vivienda

Edificio de Administración
1950 Parkside Drive MS / 10A
Concord, CA 94519

Teléfono: (925) 671-3387

Correo electrónico:

Sophia.Sidhu@cityofconcord.org

Sitio Web: www.cityofconcord.org/Housing



Eden Council for Hope & Opportunity

ORDINANCE NO. _____
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
ADDING COUNTY OF MARIN CODE OF ORDINANCES CHAPTER 5.100,
REQUIRING CAUSE TO TERMINATE A RESIDENTIAL TENANCY

SECTION I: LEGISLATIVE FINDINGS

WHEREAS, over 67,000 people permanently reside in the unincorporated area within Marin County, which population is projected to grow by approximately 10,000 additional residents by 2040, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, over thirty percent of the 26,000 households that reside in unincorporated Marin rent their homes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, it is estimated that over 2,000 households residing in unincorporated Marin have extremely low incomes, which is defined as earning approximately thirty percent of the area median income, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, approximately fifty-six percent of renters in 2010 were estimated to be overpaying for rental housing, which is defined as paying more than thirty percent of household income as rent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, between 2001 and 2013 home values increased significantly more than area incomes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, between 2004 and 2013 rental prices increased approximately thirteen percent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, there is a shortage of rental housing, including multi-family, single-family, second units, and Single Room Occupancy (SRO) units, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015-2023; and

WHEREAS, increasing rental prices combined with the constrained supply of rental housing in the County can result in displacement of County residents beyond the County and region if a household's tenancy is terminated without a cause, with impacts particularly affecting low- and moderate-income households; and

WHEREAS, a 2018 research project by the California Housing Partnership and U.C. Berkeley's Urban Displacement Project regarding Rising Housing Costs and Re-segregation showed that displaced households experienced greater housing costs after displacement, whether they moved within their county of origin, to a new county in the Bay Area, within the region, or out of state;¹ and

WHEREAS, the County's Rental Housing Survey released in 2015 received more than 800 tenant responses, and found that 372 (45 percent) were concerned with insecurity and instability of their rental home, and 59 percent of all respondents were worried about rent increases and/or evictions; and

WHEREAS, 1,296 unlawful detainer actions were filed in Marin County between 2014 and 2016, which indicates over 400 unlawful detainer actions may be filed each year;² and

WHEREAS, unlawful detainer actions filed with the courts do not account for the terminations of tenancy, notices to quit, and other actions that can result in the displacement of County residents generally, and which particularly impact members of protected classes in Marin County; and

WHEREAS, for the past approximately three years, the Board of Supervisors has been considering a slate of policy options to preserve housing affordability and prevent displacement, and has taken action to implement several measures in furtherance of these goals based in part on recommendations from an ad hoc Affordable Housing Subcommittee of the Board; and

WHEREAS, the Board of Supervisors discussed just cause for eviction policies during seven workshops, held in October and December 2015, February 2016, August and December 2017, and in June and September 2018; and

WHEREAS, the Community Advisory Group and Steering Committee for the County's ongoing Assessment of Fair Housing identified just cause for eviction policies as one priority recommendation to promote fair housing after extensive community engagement process reaching over 1,400 people from all areas of the County; and

WHEREAS, just cause for eviction policies continue to allow landlords to terminate tenancies and evict tenants based on a tenant's failure to pay rent or illegal activities, a landlord's desire to withdraw the property from the rental market, and other specified reasons, while providing tenants with more stability and security; and

¹ Zuk, M., & Chapple, K. (2018). Urban Displacement Project. Retrieved from <http://www.urbandisplacement.org/research#section-132>. Published research only for San Francisco, Alameda, and Contra-Costa Counties, but presented at Non-Profit Housing Conference applied to Bay Area generally.

² Research from Anti-Eviction Mapping Projection and Tenants Together (May 2018). Retrieved from <https://www.antievictionmap.com/evictions#/unlawful-detainer-evictions-california-20142016>.

WHEREAS, just cause for eviction policies advance fair housing policy by: increasing transparency and reducing the chance that a termination of tenancy or eviction is motivated by unlawful discrimination or retaliation; specifically protecting existing tenants who are statistically more likely to be members of protected classes than homeowners in Marin County due to historical housing policies; and

WHEREAS, on September 11, 2018, the Board of Supervisors held a workshop and received public testimony on Just Cause for Eviction policies and directed staff to develop a Just Cause Ordinance, with further direction from the Affordable Housing Subcommittee of the Board; and

WHEREAS, the Board of Supervisors has identified six specific causes for which a tenancy may be terminated that balance the needs of property owners, market conditions, and protections for the renter population in the unincorporated area of the County; and

WHEREAS, the Board of Supervisors conducted duly and properly noticed public hearings on December 4 and December 18, 2018 regarding an ordinance requiring cause to terminate a residential tenancy; and

WHEREAS, the Board of Supervisors finds and determines that regulating the reasons for terminating a tenancy between certain residential landlords and residential tenants will increase certainty and fairness within the residential rental market in the County and thereby serve the public peace, health, safety, and public welfare; and

WHEREAS, Chapter 5.100 is adopted and added to the County of Marin Code of Ordinances pursuant to the County's police powers, afforded by the state constitution and state law, to protect the health, safety, and welfare of the public.

SECTION II: ACTION

The Marin County Board of Supervisors ordains as follows: Ordinance No. [] is hereby adopted and Chapter 5.100 Requiring Cause to Terminate a Residential Tenancy shall be codified in the Marin County Code of Ordinances in the form attached as Exhibit "A" to Marin County Ordinance No. [].

SECTION III: CEQA DETERMINATION

The Board of Supervisors finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment, in that this ordinance applies residential tenant protection measures to existing residential units in unincorporated areas of Marin County, which is solely an administrative process resulting in no physical changes to the environment. Accordingly, this ordinance contains

no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

SECTION IV: SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION V: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of thirty (30) days from and after the date of its passage and shall be published once before the expiration of fifteen (15) days after its passage, with the names of the Supervisors voting for and against the same, in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this ___ day of _____ 2018 by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

DAMON CONNOLLY, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST:

Matthew H. Hymel
Clerk of the Board of Supervisors

EXHIBIT "A" TO MARIN COUNTY ORDINANCE NO. []

Marin County Code of Ordinances Chapter 5.100

Requiring Cause to Terminate a Residential Tenancy

Section: 5.100.010 Purpose and intent.

- (a) It is the purpose and intent of this Chapter to increase certainty and fairness in the residential rental market within unincorporated Marin County in order to promote the health, safety, and general welfare of residents and property owners within the County. This Chapter regulates the reason(s) for and defines certain minimum term(s) under which certain residential tenancies may be terminated by Landlords of rental Dwelling Units located within unincorporated Marin County.
- (b) The CDA Director has the authority to issue interpretations of and regulations to implement this Chapter, including the publication of form notices and other documents. All forms and notices called for to facilitate the administration and implementation of this Chapter shall be adopted by the CDA Director, with approval by the County Counsel, and included in the Guidelines.

Section: 5.100.020 Applicability.

- (a) General Application. Except as provided in Section 5.100.020(b) below, the provisions of this Chapter 5.100 shall apply to all properties in unincorporated Marin County that contain at least three: (1) Dwelling Units which contain a separate bathroom, kitchen, and living area in a multifamily or multipurpose dwelling; (2) Dwelling Units in Single Room Occupancy residential structures; or (3) units in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the Marin County Code of Ordinances, which is hired, rented, or leased to a household within the meaning of California Civil Code section 1940. This definition applies to any dwelling space that is actually used for residential purposes, including live-work spaces, whether or not the residential use is legally permitted.
- (b) Exceptions. Notwithstanding anything to the contrary above, the provisions of this Chapter 5.100 shall not apply to the following types of Dwelling Units:
 - (1) Any Dwelling Unit for which one of the following is true: (A) the Dwelling Unit is owned or operated by any government agency; or (B) the Rent is directly subsidized by a government agency such that the Tenant's portion of the Rent does not exceed 30% of household income; or
 - (2) Any Dwelling Unit located in a development where no fewer than forty-nine percent (49%) of the Dwelling Units are subject to legally binding restrictions

enforceable against and/or governing such units that limit the Rent to no more than an affordable rent, as such term is defined in California Health & Safety Code Section 50053; or

- (3) Any residential accessory dwelling unit or junior accessory dwelling unit, each as defined in Marin County Development Code Chapter 22.56; or
- (4) Any Dwelling Unit occupied by a Tenant employed by the Landlord for the purpose of managing the property.

Section: 5.100.030 Definitions.

For the purpose of this Chapter, the following words and phrases shall mean:

- (a) "County" means the County of Marin.
- (b) "CDA Director" means the County of Marin Community Development Agency Director or his or her designee unless otherwise specified.
- (c) "Dwelling Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household as defined in California Civil Code section 1940 and the Marin County Code.
- (d) "For Cause" termination has the meaning provided in subsection (b) of Section 5.100.040.
- (e) "Guidelines" means any written regulations for the administration and implementation of this Chapter adopted by the CDA Director.
- (f) "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive Rent for the use and occupancy of any Dwelling Unit or portion thereof.
- (g) "No Fault" termination has the meaning provided in subsection (c) of Section 5.100.040.
- (h) "Notice of Termination" means a written notice that includes all of the components identified in Section 5.100.050.
- (i) "Primary Residence" means a Dwelling Unit that an owner occupies as a primary residence, as evidenced by the Dwelling Unit qualifying for a homeowner's property tax exemption.
- (j) "Rent" means the consideration, including any funds, labor, bonus, benefit, or gratuity, demanded or received by a Landlord for or in connection with the use and occupancy of a Dwelling Unit and the Housing Services provided therewith, or for the assignment of a rental agreement for a Dwelling Unit.

- (k) "Tenant" means a person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Dwelling Unit.
- (l) "Tenant Household" means all Tenant(s) who occupy any individual Dwelling Unit, and each minor child, dependent, spouse or registered domestic partner of any Tenant whose primary residence is the Dwelling Unit.

Section: 5.100.040 Cause required to terminate tenancy.

- (a) Prerequisites to terminate. No Landlord may terminate a residential tenancy of a Dwelling Unit unless the Landlord can demonstrate:
 - (1) the Landlord possesses a valid Business License in accordance with Chapter 5.54 of the County Code; and
 - (2) the Landlord has previously provided the Tenant with the Notice of Tenant Rights as required by County Code Section 5.95.080, or can otherwise demonstrate timely, good faith substantial compliance with the noticing requirements listed herein; and
 - (3) the Landlord served a Notice of Termination to the Tenant, in the form required by County Code Section 5.100.050, and that the Landlord delivered a true and accurate copy of the Notice of Termination to the CDA Director within ten (10) calendar days of delivery to the Tenant(s); and
 - (4) the Landlord has not accepted and will not accept rent or any other consideration in return for the continued use of the Dwelling Unit beyond the term of the terminated tenancy in compliance with California Civil Code sections 1945, 1946, and 1946.1; and
 - (5) the termination qualifies as a For Cause or No Fault termination, as defined in this Section; and
 - (6) for all Notices of Termination served to the Tenant after June 1, 2019, the Landlord must have registered the Dwelling Unit in accordance with Section 5.100.080 of this Chapter; and
 - (7) the Landlord has complied with the requirements listed in Section 5.100.090 of this Chapter.
- (b) For Cause Terminations. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as "For Cause." Nothing in this section shall abrogate the protections afforded to survivors of violence consistent with the California Code of Civil Procedure Section 1161.3, as amended, and the Violence Against Women Act, Public Law 102-322, as amended.

- (1) Failure to Pay Rent. Tenant failed to pay Rent within three days of receiving written notice from the Landlord demanding payment as provided in subsection 2 of California Code of Civil Procedure section 1161.
- (2) Breach of Rental Contract. Tenant violated a material term of the rental agreement as provided in subsection 3 of California Code of Civil Procedure section 1161.
- (3) Tenant Illegal Activities. Tenant has been convicted for using the Dwelling Unit for an illegal purpose as provided in subsection 4 of California Code of Civil Procedure section 1161, including but not limited to the unlawful distribution of a controlled substance as contemplated by California Civil Code section 3486, the unlawful use, manufacture, or possession of weapons and ammunition as contemplated by California Civil Code section 3485, or for of a serious crime or violent felony as defined by applicable law, which occurred during the tenancy and within 1,000 feet of the Dwelling Unit. For purposes of this subsection, Tenant Household, after receiving a written notice, may cure the violation by removing, and demonstrating such removal, of the offending Tenant.
- (4) Threat of Violent Crime. Any statement made by a Tenant, or at his or her request, by his or her agent to any person who is on the property that includes the unit or to the Landlord, or his or her agent, threatening the commission of a crime which will result in death or great bodily injury to another person, with the specific intent that the statement is to be taken as a threat, even if there is no intent of actually carrying it out, when on its face and under the circumstances in which it is made, it is so unequivocal, immediate and specific as to convey to the person threatened, a gravity of purpose and an immediate prospect of execution of the threat, and thereby causes that person reasonably to be in sustained fear for his or her own safety or for his or her immediate family's safety.
- (5) Nuisance Behavior. The Tenant, after written notice to cease and the passage of a reasonable period of time to abate or cure, continues to be so disorderly or to cause such a nuisance as to destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Dwelling Unit. Such nuisance or disorderly conduct includes violations of state and federal criminal law that destroy the peace, quiet, comfort, or safety of the Landlord or other Tenants of the structure or rental complex containing the Dwelling Unit, or the creation or maintenance of a dangerous or unsanitary condition in violation of applicable local, state, and Federal law, and may be further defined in the regulations adopted by the Community Development Director.

- (6) Notwithstanding the limitations of California Code of Civil Procedure Section 1161.3, as amended, act or acts constituting domestic violence or sexual assault or stalking against the Tenant or a member of Tenant's household cannot form the substantial basis of a For Cause reason to terminate the tenancy of the victim of such acts. A member of a Tenant household may raise such facts as an affirmative defense to an action terminating the tenancy.
- (c) No Fault Terminations. If a Landlord can show any of the following circumstances with respect to a termination of tenancy, the termination will qualify as "No Fault."
- (1) Landlord Will Permanently Remove Unit from Rental Market. Landlord will imminently demolish the Dwelling Unit or otherwise permanently remove the Dwelling Unit from any residential rental use or purpose, in accordance with California Government Code sections 7060 – 7060.7.
- (2) Landlord Will Move in to Dwelling Unit. Landlord, or one of Landlord's parents or children, intends to move into and reside in the Dwelling Unit as his, her, or their Primary Residence. The Dwelling Unit must be occupied as the Primary Residence within three months of the Tenant household vacating the Dwelling Unit, and the Dwelling Unit must continue to be occupied as the Primary Residence for at least one year.
- (3) Substantial Rehabilitation for Health and Safety. Landlord has obtained permits to undertake substantial repairs to the Dwelling Unit that cannot be completed while the Dwelling Unit is occupied. To qualify, such substantial repairs must be for the primary purpose of bringing the Dwelling Unit into compliance with applicable health and safety codes.
- (d) Buy-Out Agreements. Nothing in this Chapter shall expand or limit a Landlord and Tenant's ability to negotiate or agree to end a tenancy voluntarily in exchange for money or other consideration.

Section: 5.100.050 Notice of Termination.

- (a) Contents of Notice of Termination. In addition to any information required by state or federal law, each Notice of Termination subject to this Chapter must include the following information.
- (1) The name and address of the Landlord where the Landlord will accept service of process; and
- (2) The location of the Dwelling Unit; and

- (3) The total length of the notice prior to termination of tenancy (expressed as number of days from delivery of notice until the anticipated final date of tenancy); and
 - (4) The intended final date of occupancy under the tenancy; and
 - (5) The monthly Rent applicable to the tenancy upon delivery of the Notice, and, if applicable, the date on which the final monthly Rent is due; and
 - (6) The beginning date of the tenancy and monthly Rent applicable at that time; and
 - (7) One applicable cause for which the tenancy will be terminated, in accordance with Section 5.100.040.
- (b) Language of Notice of Termination. If the Tenant's rental agreement was negotiated in a language other than English, then the Landlord is obligated to provide an accurate translation of the Notice of Termination in the language in which the rental agreement was negotiated.
- (c) Delivery of Notice. Each Notice of Termination must be delivered to the Tenant Household in accordance with Civil Code sections 1946 and 1946.1, as applicable.
- (d) Copy of Notice to County. Landlords must provide a copy of the Notice of Termination to the Community Development Agency within ten days of delivery to the Tenant(s). In the event that the Landlord has identified a breach of a rental contract as a cause for the Termination as provided in Section 5.100.040(b)(2), the Landlord must attach a copy of the applicable rental agreement or contract to the Notice of Termination when submitting the Notice of Termination to the County. Notices of Termination may be submitted via the County's website for such Notices or as otherwise specified in the Guidelines.

Section: 5.100.060 Extended notice for certain No Fault terminations.

Each Tenant household whose tenancy is terminated pursuant to subsection (c)(1) of Section 5.100.040 (Landlord will permanently remove unit from rental market) must receive notice of the termination at least one hundred twenty (120) days prior to the intended final date of occupancy under the tenancy.

Section: 5.100.070 Civil remedies.

- (a) Affirmative Defense. A Landlord's failure to comply with this Chapter, including but not limited to the identification of an applicable cause for termination described in Section 5.100.040 and delivery of a completed Notice of Termination in accordance with Section 5.100.050, shall be an affirmative defense to an unlawful detainer action by Landlord.

- (b) Civil Liability. Whenever a Landlord attempts to prevent a tenant from acquiring any rights under this chapter, retaliates against a Tenant or Tenant Household for the exercise of any rights under this chapter, or engages in activities prohibited under this chapter, the Tenant, Tenant Household, or the County may institute a civil proceeding for money damages or injunctive relief, or both. This section creates a private right of action to enforce all terms, rights, and obligations under this chapter. Whoever is found to have violated this chapter shall be subject to appropriate injunctive relief and shall be liable for damages, costs and reasonable attorneys' fees, and whatever other relief the court deems appropriate. In the case of an award of damages, said award may be trebled if the trier of fact finds that the Landlord acted in knowing violation, reckless disregard, or otherwise willfully failed to comply with this chapter.
- (c) Authorization of County to Enforce the Ordinance. The County shall have the right and authority, but not the obligation, to enforce provisions of this chapter to bring actions for injunctive relief on behalf of the County or on behalf of Tenants or Tenant Households seeking compliance by Landlords with this chapter or through administrative remedy or citation.
- (d) Civil Action to Determine Liability. Any Tenant may bring a civil action to determine the applicability of this chapter to the tenancy.
- (e) Other Private Rights of Action. Nothing herein shall be deemed to interfere with the right of a Landlord to file an action against a Tenant or non-Tenant third party for the damage done to said Landlord's property. Nothing herein is intended to limit the damages recoverable by any party through a private action.

Section: 5.100.080 Rental Dwelling Unit registry.

No later than June 1, 2019, and on or before January 1 of each year thereafter, each person or entity seeking to Rent or lease one or more Dwelling Units on properties that are subject to the provisions of this Chapter to a residential Tenant must register their unit(s), using forms provided by the County. Each addition to the registry must include, at a minimum, the following information provided under penalty of perjury and certified to be true as of November 1 of the preceding year:

- (a) the name, address, and phone number of the person(s) that own the Dwelling Unit to be rented, if other than a natural person then the name of the entity and the name and address of the designated agent for service of process; and
- (b) the address of each Dwelling Unit for rent or lease; and
- (c) the number of bedrooms in each Dwelling Unit for rent or lease; and

- (d) the amount and date of the monthly Rent received for each Dwelling Unit, identifying whether the monthly Rent includes specified utilities (water/sewer, refuse/recycle, natural gas, electricity, etc.); and
- (e) the occupancy status of each Dwelling Unit (e.g. vacant or occupied); and
- (f) the address of all other Dwelling Units owned in the County; and
- (g) the Business License number applicable to each above-referenced Dwelling Unit in accordance with Chapter 5.54 of the County Code.

Section: 5.100.090 Compliance with other local regulations

In addition to the requirements of this Chapter, properties subject to the provisions of this Chapter shall also comply with all other applicable regulations, including but not necessarily limited to maintaining a valid business license and a valid Permit to Operate from Marin County Environmental Health Services Division.

Section: 5.100.100 Severability.

The provisions of this Chapter are declared to be severable. If for any reason, any section, paragraph, clause, or phrase of this Chapter or the application thereof to any person, entity, or circumstance is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

Section: 5.100.110 Ordinance review.

This Chapter shall be reviewed by the Board of Supervisors no later than January 18, 2021, at which time the Board of Supervisors may consider revisions to this Chapter.

ORDINANCE NO. _____
ORDINANCE OF THE MARIN COUNTY BOARD OF SUPERVISORS
AMENDING COUNTY OF MARIN CODE OF ORDINANCES CHAPTER 5.95,
RENTAL HOUSING DISPUTE RESOLUTION

SECTION I: LEGISLATIVE FINDINGS

1. **WHEREAS**, over 67,000 people permanently reside in the unincorporated area within Marin County, which population is projected to grow by approximately 10,000 additional residents by 2040, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
2. **WHEREAS**, over 30 percent of the 26,000 households that reside in unincorporated Marin rent their homes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
3. **WHEREAS**, it is estimated that over 2,000 households residing in unincorporated Marin have extremely low incomes, which is defined as earning approximately 30 percent of the area median income, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
4. **WHEREAS**, approximately 56 percent of renters in 2010 were estimated to be overpaying for rental housing, which is defined as paying more than 30 percent of household income as rent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
5. **WHEREAS**, between 2001 and 2013 home values increased significantly more than area incomes, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
6. **WHEREAS**, between 2004 and 2013 rental prices increased approximately 13 percent, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
7. **WHEREAS**, there is a shortage of rental housing, including multi-family, single-family, second units, and Single Room Occupancy (SRO) units, as identified in Section II: Housing Needs Analysis of the Marin County Housing Element 2015 – 2023; and
8. **WHEREAS**, for the past approximately two years, the Board of Supervisors has been considering a slate of policy options to preserve housing affordability and prevent displacement, and has taken action to implement several measures in furtherance of these goals based in part on recommendations from an Affordable Housing Subcommittee of the Board; and
9. **WHEREAS**, on November 2, 2017, the Affordable Housing Board Subcommittee recommended that the County establish a Rental Housing Dispute Resolution program consisting of mandatory mediation and certain tenant protection policies; and
10. **WHEREAS**, the Board of Supervisors finds and determines that regulating the relations between certain residential landlords and residential tenants will increase certainty and fairness within the residential rental market in the County and thereby serve the public peace, health, safety, and public welfare; and

11. **WHEREAS**, on December 12, 2017 the Board of Supervisor adopted Ordinance 3680, and thereby added Chapter 5.95, titled "Rental Housing Dispute Resolution," to the Marin County Code of Ordinances pursuant to the County's police powers, afforded by the state constitution and state law, to protect the health, safety, and welfare of the public; and
12. **WHEREAS**, the proposed amendment would simplify the eligibility criteria and clarify certain provisions that define Good Faith Participation in the program; and
13. **WHEREAS**, the Board of Supervisors conducted duly and properly noticed public hearings on August 7 and 21, 2018 regarding the Rental Housing Dispute Resolution program; and
14. **WHEREAS**, Chapter 5.95 of the County of Marin Code of Ordinances is amended.

SECTION II: ACTION

The Marin County Board of Supervisors ordains as follows: Ordinance No. [] is hereby adopted and Chapter 5.95 Rental Housing Dispute Resolution shall be codified in the Marin County Code of Ordinances in the form attached as Exhibit "A" to Marin County Ordinance No. [].

SECTION III: CEQA DETERMINATION

The Board of Supervisors finds that adoption of this Ordinance is exempt from the California Environmental Quality Act ("CEQA") pursuant to section 15061(b)(3) of the State CEQA Guidelines because it can be seen with certainty that there is no possibility that the adoption of this Ordinance may have a significant effect on the environment, in that this ordinance applies residential tenant protection measures to existing residential units in unincorporated areas of Marin County, which is solely an administrative process resulting in no physical changes to the environment. Accordingly, this ordinance contains no provisions modifying the physical design, development, or construction of residences or nonresidential structures.

SECTION IV: SEVERABILITY

Every section, paragraph, clause, and phrase of this Ordinance is hereby declared to be severable. If for any reason, any section, paragraph, clause, or phrase is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.

SECTION V: EFFECTIVE DATE AND PUBLICATION

This Ordinance shall be and is hereby declared to be in full force and effect as of 30 days from and after the date of its passage and shall be published once before the expiration of 15 days after its passage, with the names of the Supervisors voting for and against the same, in the Marin Independent Journal, a newspaper of general circulation published in the County of Marin.

SECTION VI: VOTE

PASSED AND ADOPTED at a regular meeting of the Board of Supervisors of the County of Marin, State of California, on this 21st day of August 2018 by the following vote:

AYES: SUPERVISORS

NOES:

ABSENT:

DAMON CONNOLLY, PRESIDENT
MARIN COUNTY BOARD OF SUPERVISORS

ATTEST:

Matthew H. Hymel
Clerk of the Board of Supervisors

EXHIBIT "A" TO MARIN COUNTY ORDINANCE NO. []
Marin County Code of Ordinances Chapter 5.95
Rental Housing Dispute Resolution

Section: 5.95.010 Purpose and intent.

It is the purpose and intent of this Chapter to increase certainty and fairness in the residential rental market within unincorporated Marin County, in order to promote the health, safety, and general welfare of residents and businesses within the County. This Chapter only governs disputes between Landlords and Tenants of rental Dwelling Units located within unincorporated Marin County.

Section: 5.95.020 Applicability.

The provisions of this Chapter 5.95 shall apply to all Dwelling Units in unincorporated Marin County containing a separate bathroom, kitchen, and living area, including a single-family dwelling or unit in a multifamily or multipurpose dwelling, a unit in a condominium or cooperative housing project, or a unit in a structure that is being used for residential uses whether or not the residential use is a conforming use permitted under the Marin County Code of Ordinances, which is hired, rented, or leased to a household within the meaning of California Civil Code Section 1940. This definition applies to any dwelling space that is actually used for residential purposes, including live-work spaces, whether or not the residential use is legally permitted.

Notwithstanding anything to the contrary above, the provisions of this Chapter 5.95 shall not apply to the following:

- (a) Any Dwelling Unit that is owned or operated by any government agency; or
- (b) Any Dwelling Unit for which one of the following is true (1) the Rent is limited to no more than affordable rent, as such term is defined in California Health & Safety Code Section 50053, pursuant and subject to legally binding restrictions enforceable against and/or governing such units; or (2) the Rent is directly subsidized by a government agency such that the Tenant's portion of the Rent does not exceed 30% of income.

Section: 5.95.030 Definitions.

For the purpose of this Chapter, the following words and phrases shall mean:

- (a) "County" means the County of Marin.
- (b) "CDA Director" means the County of Marin Community Development Agency Director or their designee unless otherwise specified.
- (c) "Designated Service Provider" means a party, organization, or County Department selected by the CDA Director to provide Mediation services and other tasks necessary to implement the program and procedures contained in this Chapter and any associated Guidelines.
- (d) "Dwelling Unit" means a structure or the part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a common household as defined in California Civil Code section

1940 and County Code sections 18.10.020, 20.16.061, including those dwellings defined in County Code sections 22.02.2401 (Dwelling, one-family), 22.02.2501 (Dwelling, two-family), and 22.02.2601 (Dwelling, multiple).

- (e) "Guidelines" means any written regulations for the administration and implementation of this Chapter adopted by the CDA Director. All forms and notices called for to facilitate the administration and implementation of this Chapter shall be adopted by the CDA Director, with approval by the County Counsel, and included in the Guidelines.
- (f) "Good Faith" participation includes the affirmative duty of the Landlord to: (i) refrain from any harassment or other prohibited activity described in Section 5.95.060 and to (ii) refrain from an unlawful detainer proceeding while the parties are engaged in proceedings under this Chapter excepting only those actions authorized by subsections (3) and (4) of California Code of Civil Procedure section 1161 or any successor provisions. Good Faith participation also includes the affirmative duty of the Tenant to abide by the terms of the lease or rental agreement and to pay all lawful Rent owed.
- (g) "Landlord" means an owner, lessor, or sublessor who receives or is entitled to receive Rent for the use and occupancy of any Dwelling Unit or portion thereof.
- (h) "Mediation" means one or more meetings in which a Landlord and Tenant have the opportunity to directly 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.
- (i) "Mediator" means a person who is employed by the Designated Service Provider and who meets any criteria for conducting Mediations that may be established in the Guidelines.
- (j) "Rent" means the consideration, including any funds, labor, bonus, benefit, or gratuity, demanded or received by a Landlord for or in connection with the use and occupancy of a Dwelling Unit and the Housing Services provided therewith, or for the assignment of a rental agreement for a Dwelling Unit.
- (l) "Tenant" means a person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Dwelling Unit.

Section: 5.95.040 Mediation eligibility.

- (a) Tenant-initiated Mediation. A Tenant residing in a Dwelling Unit may file a request and receive Mediation services within either 30 calendar days from the enactment of this Chapter or ten calendar days of the Tenant's receipt of one or more notices in accordance with California Civil Code section 827 that individually or cumulatively increase Rent more than five percent within any 12-month period.
- (b) Landlord-requested Mediation. Any Landlord may file a request and receive Mediation services in order to pursue a Rent increase greater than five percent within any 12-month period.

Section: 5.95.050 Mediation process.

- (a) Designated Service Provider. The CDA Director shall contract with or designate a Designated Service Provider to provide Mediation services. The Guidelines may include

a description of minimum qualifications for the Designated Service Provider and its Mediators.

(b) Mediation Requests.

- (1) Any Tenant or Landlord eligible for Mediation under Section 5.95.040 may request Mediation services from the Designated Service Provider.
- (2) Each Landlord and/or Tenant requesting Mediation services must complete and sign a form under penalty of perjury that demonstrates eligibility for Mediation under this Chapter and includes other information as may be specified in the Guidelines.
- (3) Separate requests for Mediation services that involve one or more of the same parties may be consolidated with the consent of the Landlord and the other Tenant(s), but consolidation is not required and shall not affect individuals' ability to be separately represented or to bring a separate legal action.
- (4) If an eligible Tenant has requested Mediation as a result of receiving one or more notices in accordance with California Civil Code section 827 that individually or cumulatively increase Rent more than five percent within any 12-month period, unless the parties otherwise agree in writing, such noticed Rent increase will not be effective until the Mediation concludes.

(c) Two-Step Mediation Process. The Designated Service Provider shall assign a Mediator within ten calendar days of receiving a complete request for Mediation services. The assigned Mediator shall offer a two-step Mediation process as follows:

- (1) Within two business days of receiving a Mediation assignment from the Designated Service Provider, the Mediator shall provide notice of the Mediation to the Landlord and Tenant. The Mediation notice shall, at a minimum, inform each party of their obligation to appear at the Mediation and participate in the Mediation in Good Faith. The Mediator shall make reasonable efforts to schedule Mediation sessions at times that are mutually convenient for the Landlord and the Tenant, which may include times that are outside of business hours. The Mediation process shall commence upon notification of the Landlord and Tenant by the Mediator.
 - (A) A Mediator may notify the Landlord and/or Tenant of the Mediation process via telephone, email, or any other form of communication, but at a minimum, the Mediator must notify each party in writing via first-class mail, postage prepaid to each parties' address of record.
 - (B) Following the Mediator sending such notification, both the Landlord and the Tenant have an affirmative obligation to participate in the Mediation in Good Faith until the Mediation concludes.
- (2) The Mediation process shall conclude upon the earlier of: (A) the execution of a legally enforceable, written Mediation agreement signed by all parties to the Mediation service under Section 5.95.050(e); (B) the Mediator's determination that no further progress is likely to result from continued Mediation; or (C) all of the parties to the Mediation indicate in writing that the Mediation has concluded to their satisfaction. In no event shall a Mediation process last longer than 30 calendar

days from when the parties are notified unless the parties agree in writing to extend the Mediation term. If no legally enforceable, written Mediation agreement is reached, the Mediator shall prepare and distribute a nonbinding Mediation statement under Section 5.95.050(f). The Mediator shall send the Mediation statement to each party's address of record via first-class mail, postage prepaid.

(d) Mandatory Participation. Every party to a Mediation is affirmatively obligated to participate in such Mediation in Good Faith until the Mediator determines the Mediation has concluded.

(1) Definition. For purposes of this Section, Good Faith participation includes by reference the definition described in Section 5.95.030 and also means the mutual obligation of the Landlord and Tenant to meet on each occasion when notified of Mediation proceedings, provide relevant information, exchange proposals, timely consider and respond to proposals by opposite parties, and engage in meaningful discussion on the subject of proposed Rent increases and issues related to the Rent increase.

(2) Failure to participate in Good Faith.

(A) No Rent increase will be effective unless or until the Landlord of the Dwelling Unit complies with the provisions of this Chapter by participating in Good Faith as described in Section 5.95.030 and 5.95.050 throughout the entirety of a Mediation process.

(B) If a Tenant fails to participate in Good Faith, the Mediator at his or her discretion may determine that the Tenant has withdrawn their request for Mediation service and conclude the Mediation process, allowing any Rent increase to be implemented in accordance with the notice requirements identified in California Civil Code section 827.

(3) Finding of a failure to participate in Good Faith.

(A) A Mediator or party to the Mediation process may request that the CDA Director investigate a claim of failure to participate in Good Faith by another party. The CDA Director shall be responsible for investigating allegations of a lack of Good Faith participation by any party.

(B) Any determination that a party has failed to participate in Good Faith in a proceeding under this Chapter shall only be made after a fair hearing by a hearing officer appointed by the CDA Director and the rendition of factual findings supported by the record. All parties to such hearing must receive written notice of the hearing at least five business days prior to the hearing date. Following such a hearing, the CDA Director shall give prompt notice of the determination by first-class mail, postage prepaid, to the affected party. Additional hearing procedures, including procedures for appeals (if any), may be specified in the Guidelines.

(e) Mediation Agreements.

(1) Any agreement reached by the parties in Mediation must:

- (A) Be made in writing and signed by the parties;
 - (B) State the specific terms of the Mediation agreement including the duration and conditions of the agreement;
 - (C) State the effective date of any agreed-upon Rent increase and stipulate to the adequacy of notice for any Rent increase in accordance with California Civil Code section 827;
 - (D) Be legally enforceable against the parties to the agreement;
 - (E) Provide that the agreement may be enforced via civil action by any party and by the County or its designee as third-party beneficiaries; and
 - (F) Provide that any agent or representative signing a Mediation agreement on behalf of other persons shall be responsible for promptly providing a copy of the agreement to the parties they represent.
- (2) A Tenant bound by a Mediation agreement may not request further Mediation concerning any Rent increase covering the same time period included in the Mediation agreement but may request Mediation concerning an additional Rent Increase that is first noticed or occurs after the Mediation agreement is signed by both parties.
- (f) Mediation Statements. If a Mediation service does not result in a Mediation agreement, then the designated Mediator shall produce a nonbinding Mediation statement. The Guidelines shall include form Mediation agreements and Mediation statements that include, without limitation, the following information:
- (1) The name of each party that appeared for and participated in Good Faith in the Mediation service; and
 - (2) A concise summary of the dispute including the perspectives of each party that appeared for and participated in Good Faith in the Mediation service.

Section: 5.95.060 Anti-harassment and other prohibited activities.

- (a) No Landlord may do any of the following in bad faith, with ulterior motive, or without honest intent:
 - (1) Interrupt, fail to provide, or threaten to interrupt or fail to provide any Housing Service under a lease or rental agreement, including but not limited to utility services and other amenities and services agreed to by contract;
 - (2) Fail to perform repairs or maintenance required by contract or by State, or County housing, health, or safety laws;
 - (3) Fail to exercise due diligence to complete repairs and maintenance once undertaken, including the failure to follow industry-appropriate safety standards and protocols;
 - (4) Abuse or otherwise improperly use Landlord's right to access the property;

- (5) Remove personal property of the Tenant(s) from the Dwelling Unit;
 - (6) Influence or attempt to influence the Tenant(s) to vacate the unit by means of fraud, intimidation, or coercion (including but not limited to threats based on immigration status in violation of California Civil Code section 1940.3);
 - (7) Offer payment or any other consideration, in return for the Tenant(s) vacating the Dwelling Unit, more often than once every six months;
 - (8) Threaten the Tenant(s) by word or gesture with physical harm;
 - (9) Interfere with the Tenant(s) right to quiet use and enjoyment of the Dwelling Unit;
 - (10) Refuse to accept or acknowledge receipt of lawful Rent from the Tenant(s);
 - (11) Interfere with the Tenant(s) right to privacy;
 - (12) Request Information that violates the Tenant(s) right to privacy;
 - (13) Other repeated acts or omissions of such significance as to substantially interfere with or disturb the Tenant(s) comfort, repose, peace, or quiet enjoyment, and that cause, are likely to cause, or are intended to cause the Tenant(s) to vacate the Dwelling Unit; or
 - (14) Retaliate against the Tenant(s) for the Tenant(s) exercise of rights under this Chapter or state or federal law.
- (b) Nothing in this Section 5.95.060 prohibits the lawful eviction of a Tenant in accordance with California Civil Code section 1946.1 or by any other appropriate legal means.

Section: 5.95.070 Civil remedies.

- (a) Injunctive relief. Any aggrieved person may enforce the provisions of this Chapter by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of this Chapter may be enjoined therefrom by any court of competent jurisdiction. An action for injunction under this section may be brought by any aggrieved person, by county counsel, the district attorney, or by any person or entity which will fairly and adequately represent the interests of the protected class.
- (b) Civil Liability. Any person who violates any of the provisions of this Chapter or who aids in the violation of any provisions of this Chapter is liable for, and the court must award to the individual whose rights are violated, three times the amount of special and general damages. The court may award in addition thereto not less than two hundred dollars (\$200.00) but not more than four hundred dollars (\$400.00), together with attorney's fees, costs of action, and punitive damages. Civil actions filed pursuant to this section must be filed within one year of the events giving rise to the alleged cause of action.

Section: 5.95.080 Notice of Tenant rights.

- (a) Landlords must provide to each Tenant a notice of Tenant rights under this Chapter that describes the Mediation service and how to request service; a form for providing such notice may be issued in the Guidelines.
- (b) Landlords must provide to Tenants the notice of Tenant rights under Section 5.95.080(a) in the following circumstances:
 - (1) Within 30 calendar days of enactment of this Chapter;
 - (2) When entering a lease or rental agreement;
 - (3) When renewing a lease or rental agreement;
 - (4) When providing notice of a Rent increase; and
 - (5) At such times as required by the County, which may include, but is not limited to, when this Chapter is significantly amended.
- (c) All notices provided under this Section shall be provided in English, Spanish and Vietnamese, in the translated form made available by the County. If the Tenant's rental agreement was negotiated in another language, the Landlord is obligated to provide an accurate translation of the notification in that other language as well. Translation services for other documents or Mediations in languages other than English shall be made available to persons requesting such services subject to the County's ability to provide such services. In the event that the County is unable to provide such services, parties who do not speak or are not comfortable with English must provide their own translators. To participate in Mediation proceedings, the translators will be required to take an oath that they are fluent in both English and the relevant foreign language and that they will fully and to the best of their ability translate the proceedings.
- (d) Failure to comply with the notice provisions described in this Chapter shall render any rental increase notice invalid and unenforceable. The failure to comply with the notice provisions will be cured only after the proper written notice of Tenant's Rights, along with a new rental increase notice, has been properly served on the tenant.

Section: 5.95.090 Severability.

The provisions of this Chapter are declared to be severable. If for any reason, any section, paragraph, clause, or phrase of this Chapter or the application thereof to any person, entity, or circumstance is held to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, clauses or phrases.