



## CITY OF MILPITAS AGENDA REPORT (AR)

<b>Item Title:</b>	<b>Conduct a Public Hearing, consider adopting Urgency Ordinance No. 303, or consider introducing an Ordinance relating to just cause eviction protection for tenants (Staff Contact: Sharon Goei, 408-586-3260)</b>
<b>Category:</b>	Public Hearings-Community Development
<b>Meeting Date:</b>	10/15/2019
<b>Staff Contact:</b>	Sharon Goei, 408-586-3260; Robert Musallam, 408-586-3275
<b>Recommendations:</b>	<ol style="list-style-type: none"><li>1. Open the public hearing; hear testimony, then move to close the public hearing.</li><li>2. Adopt Urgency Ordinance No. 303 enacted pursuant to California Government Code Section 36937 to add Chapter 4 to Title XII of the Milpitas Municipal Code relating to just cause eviction protection for tenants; or</li><li>3. Following the City Attorney's reading of the title, move to waive the first reading beyond the title and introduce a regular Ordinance to add Chapter 4 to Title XII of the Milpitas Municipal Code relating to just cause eviction protection for tenants.</li></ol>

### **Background:**

On February 20, 2018, the City Council approved the formation of the Tenant Protection Task Force. The Task Force was established in September 2018, consisting of tenant and landlord representatives, to develop recommendations that would address tenant challenges experienced in Sunnyhills and similar communities. Representatives of the tenant community serving on the Task Force included Project Sentinel, Law Foundation of Silicon Valley, the President of the Sunnyhills Apartment Tenants Association, and Silicon Valley Independent Living Center. Representatives of the landlord community serving on the Task Force included California Apartment Association, an apartment property manager, a landlord representative, and Santa Clara Association of Realtors.

The Task Force meetings spanned from September 2018 through February 2019. The landlord and tenant groups met separately from each other in October, November, and December. Subsequent joint meetings in January and February were held to identify any commonalities the groups shared including core values. The results of the Tenant Protection Task Force were presented to the City Council on April 2, 2019.

On May 7, 2019, the City Council met to consider Council/Mayor requests for an urgency ordinance for rent control and an urgency ordinance for just cause eviction. While Council did not approve moving forward on the urgency ordinances, it did approve the establishment of a new City Council Housing Subcommittee to continue to address the needs of the community based on the community feedback the Council received. Councilmembers Montano and Nuñez were appointed to serve on this newly formed subcommittee.

On May 21, 2019, the City Council Housing Subcommittee held its first meeting. The Subcommittee acknowledged the May 7 Council decision to not pursue rent control and just cause ordinances, and sought alternatives to provide tenant assistance by brainstorming ideas, which included the implementation of a rent review ordinance to be modeled similarly to the Rent Review Ordinance adopted by the City of Fremont. From May through September 2019, the Subcommittee held eleven meetings that were open to the public to discuss and direct City staff on their vision for the Rent Review Ordinance. While no other specific Ordinances were considered as a model, the Subcommittee took into account pending state legislation, such as pending AB 1482 - a statewide rent control bill - which would be relevant to the proposed Rent Review Ordinance.

On September 11, 2019, Assembly Bill 1482 passed the Legislature and the Governor was expected to sign the bill. The bill is set to limit rent increases across the state to 5 percent plus cost of living inflation, or 10 percent, whichever is lower. The bill would also prohibit an owner from terminating a tenancy without just cause. After AB 1482 is signed by the Governor and becomes effective, the rent increase restrictions will apply to all rent increases occurring on or after March 15, 2019, but the prohibitions on eviction without just cause will not go into effect until January 1, 2020.

On September 17, 2019, following the City Attorney's reading of the title, the City Council waived the first reading beyond the title and introduced Ordinance No. 302 to add Chapters 2 and 3 to Title XII of the Milpitas Municipal Code relating to the adoption of a rent review program and tenant protections. Staff was directed to schedule a special study session of the Housing Subcommittee and City Council to discuss topics that may include AB 1482, the Rent Review Ordinance, and any ordinance related to just cause eviction protection.

On September 24, 2019, the study session was held, and members of the Housing Subcommittee and City Council provided input on the Rent Review Ordinance and also discussed an interest to adopt a local just cause eviction ordinance that mirrors AB 1482. The Council was concerned that AB 1482, if signed by the Governor by October 13, 2019, would not become effective until January 1, 2020. Therefore, any evictions that occur from now until the end of the year would not be covered under the new state law. Direction was provided to staff to draft an urgency ordinance for City Council consideration on October 15, 2019, that would take effect immediately upon adoption. This ordinance as proposed would be consistent with AB 1482 to prohibit eviction without just cause and would be effective through the end of 2019. On January 1, 2020, AB 1482 would be in effect statewide.

On October 8, 2019, the Housing Subcommittee met to debrief from the September 24 discussion regarding the Rent Review Ordinance revisions and an ordinance for just cause eviction protection.

On the same day, Governor Newsom signed AB 1482 into law.

The staff recommendations reflect the direction provided by the City Council Housing Subcommittee. To stay up-to-date on the progress and work being accomplished by the Housing Subcommittee for the Milpitas community, visit the [Housing Subcommittee website Latest News and Updates](#).

#### Ordinance Effective Date

For just cause eviction protection, both an Urgency Ordinance (No. 303) and a regular ordinance, have been prepared for the City Council's consideration. The differences between the ordinances are the effective date and urgency findings. The codified portion of the ordinances is the same.

An urgency ordinance must be passed by a four-fifths vote of the City Council and takes effect immediately. Findings for the urgency need to be made for the immediate preservation of the public peace, health, or safety, and such findings are incorporated in the ordinance. If at least four Councilmembers vote to pass Urgency Ordinance No. 303 on October 15, 2019, it would take effect immediately, and stay in effect through December 31, 2019.

For the regular Ordinance, it would take effect 30 days after its final passage. Council action would require a Council majority, which is at least three Councilmembers. If following the City Attorney's reading of the title, at least three Councilmembers voted to move to waive the first reading beyond the title and introduce the Ordinance, the Ordinance would return for adoption at a second reading. This must take place at a regular Council meeting, making the November 5, 2019 Council meeting the soonest date for the second reading to adopt the Ordinance. As a result, December 5, 2019 would be the soonest effective date for the regular Ordinance. The ordinance would be effective from December 5 through December 31, 2019.

#### Analysis:

## AB 1482

AB 1482 implements two concurrent protections on applicable units: (1) a cap on rent increases and (2) just cause eviction protection. A discussion on each will follow:

### *Rent Cap*

AB 1482 introduces a cap on rent increases that would allow a landlord to raise the rents by 5% per year plus the percentage change in the cost of living, or 10%, whichever is lower. To provide historical context, staff researched the annual percentage change for the Bay Area Consumer Price Index (CPI) for the last five years. In 2018, 2017, 2016, 2015, and 2014, the CPI increase was approximately 3.9%, 3.2%, 3.0%, 2.6%, and 2.8%, respectively. The latest forecast for 2019 is a CPI increase of approximately 3.9%, which under AB 1482 would have allowed a maximum rent increase of 8.9%.

### *Just Cause Eviction Protection*

AB 1482 includes just cause eviction protection for tenants. Just cause eviction protection would require a landlord to have a valid reason for terminating a tenancy. Some examples of just cause include non-payment of rent, violation of a lease term, and nuisance. AB 1482 does not apply to tenants who have been residing in the unit for under 12 months. However, on average, tenants are more likely to sign a one-year lease agreement versus a month-to-month agreement. Additionally, those tenants who sign a one-year lease are guaranteed protection under that lease agreement unless they substantially violate the terms of the lease. Under current California law, in leases from month to month, a landlord must provide a tenant with 30 days' notice prior to a rent increase of 10% or less, and 60 days' notice prior to a rent increase greater than 10%. Under AB 1482, the exclusion of tenants who have lived in units for under 12 months may not have much impact on unjust evictions.

### *Range of Applicable Units*

AB 1482 applies to all housing units except single family homes (except those owned by real estate investment trusts or corporations), owner occupied duplexes, subsidized housing units or units receiving other sources of state/federal assistance, and units built in the last 15 years.

### Just Cause Eviction Protection and Applicable Units

Typically, just cause eviction is implemented alongside some form of rent control. AB 1482 provides just cause eviction protection to all units except those excluded from the bill. In Milpitas, approximately 5,000 units across single family homes, subsidized units, and units built in the last 15 years will not be covered by just cause eviction protections. Most cities that have adopted a rent control ordinance have also adopted provisions for just cause eviction protections, such as the cities of Berkeley, Hayward, Mountain View, Oakland, Richmond, San Jose, East Palo Alto, Alameda, and San Francisco.

Although AB 1482 will go into effect on January 1, 2020, after hearing public testimony at multiple meetings, the City Council desired to prohibit evictions without just cause sooner than January 1, 2020. In accordance with Council direction, staff has prepared an ordinance consistent with AB 1482 to prohibit eviction without just cause and the ordinance would be effective through December 31, 2019. This would help prevent displacement of tenants and decrease the risk of tenants becoming homeless.

### Policy Alternatives:

**Alternative 1:** Do not adopt a Just Cause Eviction Protection Ordinance.

Pros: The landlord community would not be impacted by the rules of the ordinance.

Cons: The tenant community would not have the tenant protection for Milpitas residents.

Reason for Not Recommending: The City Council desired to prohibit evictions without just cause sooner than January 1, 2020 to help prevent displacement of tenants and decrease the risk of tenants becoming homeless.

**Alternative 2:** Introduce the Just Cause Eviction Ordinance, and do not adopt as an urgency ordinance.

Pros: Tenants in Milpitas would have just cause eviction protections before the state law becomes effective.

Cons: The effective date of the ordinance would be delayed until 30 days after adoption. The earliest effective date would be December 5, 2019. Just cause protections would not take effect immediately.

**Fiscal Impact:**

The fiscal impact for adopting a just cause eviction protection ordinance is in the form of staff time. Assisting Milpitas residents with just cause eviction issues is within the current scope of services for Project Sentinel. The funding approved for Project Sentinel for FY 2019-20 covers the services to address just cause eviction complaints and issues.

**California Environmental Quality Act:**

The action being considered has no potential for causing a significant effect on the environment and is exempt from the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3).

**Recommendations:**

1. Open the public hearing; hear testimony, then move to close the public hearing.
2. Adopt Urgency Ordinance No. 303 enacted pursuant to California Government Code Section 36937 to add Chapter 4 to Title XII of the Milpitas Municipal Code relating to just cause eviction protection for tenants;  
or
3. Following the City Attorney's reading of the title, move to waive the first reading beyond the title and introduce an Ordinance to add Chapter 4 to Title XII of the Milpitas Municipal Code relating to just cause eviction protection for tenants.

**Attachments:**

- a. Urgency Ordinance No. 303
- b. Regular Ordinance