



DATE: June 25, 2019

TO: Mayor and City Council

FROM: City Clerk

SUBJECT: Adoption of an Ordinance Adding Chapter 12, Article 1, to the Hayward Municipal Code Regarding the Residential Rent Stabilization and Tenant Protection Ordinance

RECOMMENDATION

That the Council adopts the Ordinance introduced on June 18, 2019.

SUMMARY

This item entails adoption of an Ordinance adding Chapter 12, Article 1 to the Hayward Municipal Code, introduced on June 18, 2019, by Council Member Márquez.

BACKGROUND

The Ordinance was introduced by Council Member Márquez at the June 18, 2019, regular meeting of the City Council with the following vote:

AYES: COUNCIL MEMBERS: Zermeño, Márquez Mendall, Lamnin, Wahab, Salinas
MAYOR Halliday

NOES: NONE

ABSENT: NONE

ABSTAIN: NONE

The motion included amendments to the Ordinance, which have been summarized in the table below. The Ordinance also has a couple of formatting edits to ensure numerical consistency. Attachment III (Exhibit A) contains the amendments shown in bold and underlined red font.

| SECTION | CORRECTION | LANGUAGE CHANGE |
|------------------|---|---|
| Section 7(b) | Corrected incorrect section reference in second paragraph. | 5(b)(2) to 7(b)(2) 5(b)(3) to 7(b)(3) |
| Section 7(j)(4) | | (4) The Landlord and Tenant may submit a written statement and documentary evidence in preparation for the arbitration to the Rent Review Officer at least seven (7) days prior to the arbitration hearing. Requests for translation services during the mediation <u>arbitration</u> shall be submitted to the Rent Review Officer at least five (5) days prior to the scheduled mediation <u>arbitration</u> hearing. |
| Section 7(j)(6) | Corrected ambiguity related to burden of proof placing burden solely on landlords. | For Tenant petitions, the burden of proof shall be on both Landlord and Tenant(s) . |
| Section 10 | Corrected incorrect section reference. | 5(b)(2) to 7(b)(2) 5(b)(3) to 7(b)(3) 5(b)(1) to 7(b)(1) 5(b)(4) to 7(b)(4) 5(b)(5) to 7(b)(5) 5(b)(6) to 7(b)(6) 5(b)(7) to 7(b)(7) |
| Section 11 | Deleted requirement to pay annual interest on Security deposits, as communicated to stakeholders. | Security Deposits shall be collected by the Landlord and administered in accordance with state law. |
| Section 12(b)(5) | Deleted reference to reporting tenants to U.S. Immigration and Customs Enforcement if contacted by said agency. | (5) Influence or attempt to influence a Tenant to vacate a Rental Unit through fraud, intimidation or coercion, which shall include threatening to report a Tenant to U.S. Immigration and Customs Enforcement. though that prohibition shall not be construed as preventing communication with U.S. Immigration and Customs Enforcement if contacted by said agency |
| Section 12(j)(2) | Added the word “veteran” to section providing increased penalties. | (2) A defendant shall be liable for an additional civil penalty of up to five thousand (\$5,000) dollars for each violation of this Section committed against a person who is <u>a Veteran or</u> disabled within the meaning of California Government Code section 12926, et. Seq., or aged sixty-five or over. |
| Section 12(n) | Replaced the word “police” with “policy”. | (n) <u>Non-waiverability</u> . Any provision, whether oral or written, in or pertaining to a Rental Agreement whereby any provision of Section 12 is waived or modified, is against public police <u>policy</u> and void. |

The next paragraph is provided in response to clarification of Administrative penalties enumerated in Section Section 12-1.18(b).

The administrative penalties provision for a landlord's failure to provide the required notices to tenants and/or the City are statutorily prescribed by state law. The language used in Section 12-1.18(b) (Failure to Provide Required Notices) was taken directly from California Government Code, Section 36900 et. seq. and is consistent with administrative penalties listed in other sections of the Hayward Municipal Code. The City is not permitted to increase the monetary amounts set by the state. However, the provision provides a mechanism for the City to pursue particularly egregious violations with a fine not to exceed \$1,000 or imprisonment by six (6) months, through the assistance of the District Attorney's Office. For purposes of this statute, imprisonment can equate to community service on public property within the City.

STRATEGIC INITIATIVES

This agenda item is a routine operational item and does not relate to one of the Council's Strategic Initiatives.

FISCAL IMPACT

There is no fiscal impact associated with this report.

PUBLIC CONTACT

The summary of the Ordinance was published in the Hayward Daily Review on Friday, June 21, 2019. Adoption at this time is therefore appropriate.

NEXT STEPS

The Hayward Municipal Code and other related documents will be updated accordingly.

Prepared and Recommended by: Miriam Lens, City Clerk

Approved by:



Kelly McAdoo, City Manager