



STAFF REPORT

City Council

Meeting Date:

3/12/2019

Staff Report Number:

19-046-CC

Regular Business:

Second reading and adoption of Ordinance No. 1053 to add residential tenant relocation assistance requirement and discussion of establishing a community housing fund to assist lower income tenants

Recommendation

Staff recommends the City Council:

1. Waive second reading and adopt Ordinance No. 1053, the attached tenant relocation assistance ordinance
2. Adopt Resolution No. 6488 establishing a community housing fund to assist in payment of relocation assistance benefits to tenants and establishment of criteria

Policy Issues

At its August 22, 2017, meeting, the City Council identified tenant relocation assistance as a priority one item for consideration as part of the enhanced housing policies list referred to the Housing Commission for study and consideration.

Background

High rent increases are being reported throughout the Bay Area, along with reports of lower-income households losing their apartments due to inability to pay rent, having to work multiple jobs, double up in overcrowded apartments, or move to other communities. Forty-four (44) percent of Menlo Park residents rent their homes citywide and 57 percent rent their homes in the Belle Haven neighborhood. In the five year period from January 2014 to January 2019, the average 1-bedroom and 2-bedroom unit rents have increased 37 percent (from \$2,317 to \$3,179) and 24 percent (from \$3,330 to \$4,147), respectively.

The City Council has taken several steps to address these issues, including amending its below market rate (BMR) ordinance to require additional on-site affordable units, adoption of a minimum lease ordinance, adoption of a tenant anti-discrimination ordinance and amendment of its BMR guidelines to allow homeless individuals and residents who lost their homes following the 2008 economic downturn to qualify for BMR housing. The City's most recent effort has been development of a tenant relocation assistance ordinance with assistance from the Housing Commission.

On February 12, 2019, the City Council conducted a study session on the tenant relocation assistance ordinance developed by the Housing Commission. As there were differing policy views, the City Council provided some general feedback and directed staff to return with two different tenant relocation ordinances – one to be modeled after Redwood City's recently adopted tenant relocation ordinance and the second based on the Housing Commission's ordinance. The City Council also provided feedback that a community fund should be explored to provide relocation assistance for tenants who were at risk of homelessness, or

to assist landlords who could not afford to make payments.

On February 26, 2019, the City Council conducted a public hearing on the two alternative ordinances. The City Council voted 3-2 to introduce the tenant relocation assistance ordinance (Attachment A) modeled after Redwood City. The ordinance would apply to all properties consisting of more than four rental units. Relocation payments would be available to tenant households whose annual household income does not exceed 80 percent (80%) of the area median household income for San Mateo County as adjusted for household size according to the Department of Housing and Urban Development (HUD) and displaced for the following reasons:

1. The landlord seeks to withdraw all rental housing units from the rental housing market per the Ellis Act
2. The landlord seeks to recover possession to demolish or otherwise remove a residential rental housing unit from residential rental housing use after having obtained all proper permits from the city, if any such permits are required
3. The landlord seeks to recover possession to remodel, renovate or rehabilitate the unit(s) resulting in permanent displacement of tenants
4. The landlord seeks the conversion of a building into a condominium, community apartment or stock cooperative
5. A change of real property from a residential use to a non-residential use that requires a city permit

The following displacements would be exempt from the ordinance:

1. Conversion of a mobile home park
2. A landlord's compliance with an enforcement order of the city's chief building official for which the property owner has been ordered to pay relocation expenses under state or federal law
3. The residential household is required to vacate the rental unit due to damage resulting from a natural disaster or accident outside the control of the landlord
4. Temporary displacement where tenants have been provide with alternative housing on-site or nearby provided that such displacement shall be for a period of no more than one year; and
5. Expiration of a lease that was not extended by the operation of Civil Code Section 1945

Under the ordinance, the landlord would be responsible for paying relocation payments equivalent to three months of the HUD-published fair market rent (FMR) for San Mateo County for a comparable sized unit. Special circumstance households would be eligible for one additional month of rent.

At the February 26, 2019, meeting, the City Council also expressed an interest in establishing a community housing fund to provide relocation assistance to some of the displacements not covered by the City's ordinance and the Mayor appointed Mayor Pro Tem Taylor and City Councilmember Combs to meet with staff to develop criteria for the fund.

Analysis

On March 4, 2019, Mayor Pro Tem Taylor and City Councilmember Combs met with staff. Below is a summary of the subcommittee's discussion.

Fund purpose

The subcommittee agreed that the primary purposes of the fund should be to provide financial assistance to lower income households not covered by the City's tenant relocation ordinance in an attempt to avoid homelessness.

Eligibility criteria

The subcommittee discussed the need to have an income threshold that would appropriately capture

households most in jeopardy of becoming homeless. The subcommittee reviewed Menlo Park data from the American Community Survey, which estimated that 31.5 percent of households have incomes below \$75,000. Accordingly, the subcommittee discussed income limits of 50 or 60 percent of the area median household income for San Mateo County as adjusted for household size according to HUD. The subcommittee did not make a final recommendation on the income threshold and the below table below shows the income limits for these options based on household size.

Household size	Very low-income (50% AMI)	HOME limit (60% AMI)	Low-income (80% AMI)
1-person	\$51,350	\$61,620	\$82,200
2-persons	\$58,650	\$70,380	\$93,950
3-persons	\$66,000	\$79,200	\$105,700
4-persons	\$73,300	\$87,960	\$117,400
5-persons	\$79,200	\$95,040	\$126,800
6-persons	\$85,050	\$102,060	\$136,200
7-persons	\$90,900	\$109,080	\$145,600
8-persons	\$96,800	\$116,160	\$155,000

The subcommittee also discussed whether tenants holding certain jobs should be given priority. The subcommittee noted the value of a wide variety of jobs in our community and did not feel comfortable using this criterion as a basis for distinction. The subcommittee also noted there were ongoing discussions about increasing housing assistance for certain job sectors, such as teachers, and that the community housing fund should be broader. The subcommittee also felt it was important to specify some qualifying length of tenancy to avoid potential abuse and provide maximum opportunity for tenants with existing connections to the community to stay housed within Menlo Park.

As for displacement triggers, the subcommittee felt the displacement trigger should be focused on significant rent increases that caused a tenant to vacate a unit. The Housing Commission previously vetted this criterion and the subcommittee felt comfortable with the consumer price index plus 5 percent threshold. This would address community members' concerns about rapidly increasing rents but in a way that would not involve the legal risk of a Costa-Hawkins challenge. Finally, the subcommittee discussed whether the fund should be used for landlord hardship cases and decided that for now it would be better to focus on the narrow category of tenant needs. As an overall guiding principle, the subcommittee noted a desire to keep the criteria simple so the fund could be administered in an efficient manner.

Given this discussion, the following criteria were discussed for City Council's consideration:

1. Tenant household should have an income eligibility requirement of 50 percent or 60 percent AMI (area median income) to be selected by the City Council.
2. Tenants who were currently receiving housing benefits in the form of Section 8 rental subsidies or other government assistance would not be entitled to benefits.
3. Tenants who had previously received any form of tenant relocation assistance from a landlord would be not be entitled to benefits.
4. Tenants who were forced to relocate following notice of a significant rent increase were eligible for benefits.

5. Tenants must have resided in the unit for 12 months or more to be eligible for benefits.

Relocation assistance amount

While there was not a consensus on the payment amount, the subcommittee agreed that the City's goal should be to assist more tenants with smaller payments than to provide greater payments to fewer households. Several alternative payment structures emerged from the discussion:

1. Alternative 1 (Emergency security deposit): Provide 1 month of HUD-published FMR
2. Alternative 2 (Tiers based on length of tenancy):
 - For tenants residing in the unit for 12-24 months: 1 month
 - For tenants residing in the unit for 25-36 months: 2 months
 - For tenants residing in the unit for over 36 months: 3 months
3. Alternative 3 (incentive to stay in Menlo Park):
 - For tenants who find a rental outside of Menlo Park: 1 month
 - For tenants who find a rental within Menlo Park: 2 months

Fund administration

The subcommittee discussed a range of administration options, including staff level, Housing Commission, City Council and third-party administration. Ultimately, the subcommittee felt it was important to prescribe clear criteria that could be easily administrated at a staff level. Staff administration would reduce fund overhead, provide the most expedient way to disburse funds to tenants and best secure privacy of tenants' financial information. Accordingly, the subcommittee recommended that fund administration be assigned to the deputy community development director with regular progress reports provided to the Housing Commission. For internal control purposes, staff recommends that the fund administration be assigned to the city manager who is authorized, by resolution, to delegate administration to any staff member with the ability to administer the program.

The subcommittee discussed best practices regarding disbursement of funds and recommended that payments be made directly to a tenant's new landlord to ensure proper use of funds for security deposits/rent and increased efficiency. Staff would develop further guidelines and procedures to ensure proper use of funds.

Funding sources

The subcommittee had extensive conversations about funding sources. The city manager reviewed the current available funds and determined that the general fund would be the most appropriate. The subcommittee suggested that the City Council provide the initial seed money for the fund, with requests to be made to the California Apartment Association (CAA), Silicon Valley Association of Realtors (SILVAR) and large residential developers for contributions. Additionally, the subcommittee suggested soliciting donations from other large developers with an interest in preserving an economically diverse Menlo Park housing stock. The subcommittee discussed applying for Measure A/K grant funding but noted that it would take time to put together a competitive application. It was also noted that some of these grant funds were already targeted for new housing production.

Staff recommends that the City contribute initial seed funding of \$100,000. The subcommittee requested staff return to the City Council shortly before the initial funding is exhausted to provide a progress report and seek City Council direction on whether additional city funding should be used. Ongoing revenue streams were discussed, including a business license tax or fee for rental properties or use of the BMR funds. Given the uncertainty of the funding level and amount of need, the attached resolution (Attachment B) clarifies that tenants meeting the designated criteria are not guaranteed payment.

Resolution and program guidelines

If approved, the attached resolution would establish the community housing fund and incorporate some draft guidelines for fund administration. The resolution provides authority to the city manager or designee to adopt additional program guidelines necessary to implement the community housing fund.

Impact on City Resources

The tenant relocation assistance payments under the ordinance would be made by the landlord to the tenant directly. However, management of the program would have impacts on staff time and resources. The ordinance provides that the City would pass through its administrative costs to the landlord.

At the last City Council meeting, the councilmembers inquired about Redwood City's fee structure. When the fee was originally proposed, Redwood City staff estimated the administrative costs would be approximately 10 percent of the relocation payment. Thus if the landlord were responsible for a relocation payment of \$8,427 (three months rent for 2-bedroom unit), using the original Redwood City estimate, the administrative fee would be \$843.00. In Redwood City, rather than adopt this fee, the City Council requested its staff conduct a fee study to better determine the associated staff costs. That study has yet to be completed.

The City Council may ultimately establish the fee at any level, provided it does not exceed the estimated cost of service. Staff will return with a cost of service report for further City Council consideration.

As to the community fund payments, the initial seed funding of \$100,000 would be taken from the undesignated General Fund balance. In addition, the initial implementation will have staff impacts. At this time, the exact amount is unknown but it is believed that this can be absorbed into the Housing Division operations, at least initially.

Environmental Review

This action is not a project under the California Environmental Quality Act ("CEQA") and therefore not subject to the provisions of the CEQA Guidelines under Sections 15378 and 15061(b)(3).

Public Notice

Public notification was achieved by posting the agenda, with the agenda items being listed, at least 72 hours prior to the meeting.

Attachments

- A. Ordinance No. 1053 – Tenant relocation assistance ordinance
- B. Resolution No. 6488 – Establishing a community housing fund for tenant relocation assistance

Report prepared by:

Clay J. Curtin, Assistant to the City Manager

Cara Silver, Assistant City Attorney

ORDINANCE NO. 1053**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENLO PARK ADDING
CHAPTER 8.55 OF THE MENLO PARK CODE REGARDING TENANT
RELOCATION ASSISTANCE**

The City Council of the City of Menlo Park does hereby ordain as follows:

SECTION 1. FINDINGS AND DETERMINATIONS.

- A. There are 12,347 residential units in Menlo Park. Of those, 6,927 (or 56 percent) units are owner occupied and 5,420 (or 44 percent) units are tenant occupied. In the Belle Haven neighborhood, 57 percent of the total population are tenants.
- B. The City of Menlo Park currently does not regulate rent increases or reasons for evictions from residential property and certain aspects of public peace, health, and safety are not adequately protected due to the lack of regulation.
- D. The California Housing Partnership Corporation estimates there is a shortage of 25,882 affordable rental homes to accommodate low-income renters in San Mateo County, which has a population of 748,732 and 106,289 renting households, according to the U.S. Census.
- E. The report Displacement in San Mateo County: Consequences for Housing, Neighborhoods, Quality of Life, and Health found that after being displaced, only 21 percent of households reported staying in the same neighborhood (within 1 mile of their previous home). Thirty-three percent of households left San Mateo County, generally moving to the Central Valley or eastern communities in the East Bay.
- F. The rents in San Mateo County and Menlo Park in particular have been steadily increasing. Increasing rents combined with a housing shortage places substantial pressure on the existing city residents who rent housing. In particular, rising rents can lead to tenant displacement of longstanding residents.
- G. On August 22, 2017, the City Council directed City Staff to prioritize housing policies, with tenant relocation assistance being part of the priority one recommended policies.
- H. On July 11, 2018, the Housing Commission held a regular public meeting to discuss and consider for recommendation to City Council for adoption of a draft tenant relocation assistance ordinance.
- I. On August 8, 2018, the Housing Commission held an additional regular public meeting to discuss and consider for recommendation to City Council for adoption of a draft tenant relocation assistance ordinance.
- J. The Commission scheduled two additional community meetings, one at the Menlo Park Senior Center, September 12, 2018, and one at the City Council Chambers, September 13, 2018, in order to hear additional public comment on the matter.

- K. According to the Legal Aid Society of San Mateo County (“Legal Aid”), at least 20 “no fault” eviction notices were issued within the past 32 months in Menlo Park and this sample of eviction activity, self-reported by the Menlo Park residents who elected to consult a lawyer, is a fraction of the total. Legal Aid further reports that at least an additional 10 Menlo Park households reported rent increases of more than ten percent (10%) during the past 32 months. Again, this fractional sampling does not capture the full-scale of significant rent increases in the city.
- L. This data is also supported by reports received by the City from tenants and community organizations that indicate at least 20 instances of “no fault” evictions and at least 10 instances of tenants having received rent increase notices greater than 10 percent (10%) since December 2015.
- M. Tenants evicted in Menlo Park are forced to incur substantial costs related to new housing including, but not limited to, move-in costs, moving costs, new utility hook-ups, payments for temporary housing, and lost work time seeking housing. Move-in costs commonly include first and last month’s rent plus a security deposit equal to one month’s rent, leading to total relocation expenses in excess of three months’ rent.
- N. The impacts of evictions are particularly significant on low-income, elderly, and disabled tenants and tenants with minor children, justifying an additional payment for households with these tenants.
- O. In light of the numerous concerns noted herein, including but not limited to, the current threat to the public peace, health and safety by the fact that tenants are not adequately protected due to the lack of regulation and the adverse impacts that would result from displacement of City residents, this measure is necessary to preserve the public peace, health, and safety of the community.
- P. In enacting this ordinance, the City is exercising its right to regulate and monitor the basis for eviction.

SECTION 2: ADDITION OF CODE. Chapter 8.56 [Tenant Relocation Assistance] of Title 8 [Peace, Safety and Morals] is hereby added to the Menlo Park Municipal Code to read as follows:

**Chapter 8.56
TENANT RELOCATION ASSISTANCE**

Sections:

- 8.56.010 Short Title, Authority and Applicability
- 8.56.020 Purpose
- 8.56.030 Definitions
- 8.56.040 Requirement to Provide Relocation Assistance
- 8.56.050 Relocation Assistance
- 8.56.060 Relocation Assistance Payments
- 8.56.070 Tenant Displacement Notices
- 8.56.080 Landlord Submittal Requirements
- 8.56.090 Alternative Mitigation
- 8.56.100 Administrative Regulations

- 8.56.110 Mitigation not Exclusive
- 8.56.120 Retaliation prohibited
- 8.56.130 Failure to comply

8.56.010 Short Title, Authority, and Applicability

- A. This Chapter shall be known and may be cited as the "Relocation Assistance Ordinance."
- B. The requirements established pursuant to this Chapter are adopted under the authority of California Constitution Article XI, Section 7, which provides: "A county or city may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws," and in accordance with the purpose set forth in the ordinance codified in this Chapter.
- C. This Chapter shall apply to the extent permitted by the statutes and laws of the State of California.

8.56.020 Purpose

The primary purpose for relocation assistance is to minimize disruption to tenants and their families caused by a need for relocation by addressing financial impacts. Securing replacement housing generally requires a significant amount of money for expenses related to a physical move, such as first and last month's rent and security deposits. Projects assisted with Federal and State funds are subject to requirements to provide relocation assistance to households displaced by those projects. There is currently no state mandate for landlords to assist displaced tenants by compensating for relocation costs. While an unanticipated move may be challenging for any tenant, it is especially difficult for extremely low, very low and low income households.

8.56.030 Definitions

The following words and terms as used in this Chapter shall have the meaning respectively ascribed thereto:

- A. Application. Any application required to be submitted to the City for discretionary or ministerial approval of a land use change or improvement of real property that will result in a permanent displacement of a residential household.
- B. Displace or Displacement. The vacating of one (1) or more rental units on properties with five (5) or more units by residential households upon notice from the landlord as the result of or to enable any of the following:
 - 1. The landlord seeks to withdraw all rental housing units from the rental housing market as provided in Government Code Section 7060, et seq.;
 - 2. The landlord seeks to recover possession to demolish or otherwise remove a residential rental housing unit from residential rental housing use after having obtained all proper permits from the City, if any such permits are required;
 - 3. The landlord seeks to recover possession to remodel, renovate or rehabilitate the unit(s) resulting in permanent displacement of tenants;
 - 4. The landlord seeks the conversion of a building into a condominium, community

apartment or stock cooperative, as those terms are defined in California Government Code and Business and Professions Code; or

5. A change of use of real property from a residential use to a nonresidential use that requires a permit from the City.
- C. For the purposes of this Chapter, a displacement does not include a vacation of a rental unit as the result of the following:
1. A conversion of any portion of a mobile home park regulated and processed pursuant to Chapter 28 of this code;
 2. A landlord's compliance with an enforcement order of the City chief building official for which the property owner has been ordered to pay relocation expenses pursuant to Health and Safety Code Section 17975, et seq., or any other state or federal law;
 3. The residential household is required to vacate the rental unit due solely to damage resulting from an earthquake, fire, flood, natural disaster, civil disturbance, or accident outside the control of the landlord; or
 4. Temporary displacement where tenants have been provided with alternative housing on-site or nearby provided that such displacement shall be for a period of no more than one year.
 5. Expiration of a lease that was not extended by the operation of Civil Code Section 1945.
- D. Eligible residential household. A displaced residential household whose annual household income does not exceed eighty (80) percent of the area median household income for San Mateo County as adjusted for household size according to the United States Department of Housing and Urban Development, as may be adjusted from time to time, and whose rental payments to the landlord remain current through the date of displacement. The presumption of eligibility specified in the preceding sentence shall not apply where the landlord provides evidence of any of the following circumstances:
1. The residential household's occupancy ended due to the expiration of a term lease or termination of a month to month rental agreement and the tenancy was not extended by the operation of Civil Code Section 1945; or
 2. The residential household (a) is in the process of being evicted pursuant to the terms of the rental agreement for failure to pay rent or other breach of the rental agreement; or (b) has been found guilty of unlawful detainer pursuant to Subdivisions 2, 3, 4 or 5 of Section 1161 of the Code of Civil Procedure as evidenced by a final judgment of a court of competent jurisdiction; or (c) has entered into a stipulated agreement in an unlawful detainer action which requires vacation of the premises; or
 3. The residential household received written notice, before entering into a written or oral agreement to become a tenant, that an application to convert their rental unit to another use was on file with the City or had already been approved and would result in their displacement.
- E. Landlord. An owner, lessor or sublessor of property (including any person, firm, corporation or other entity) who receives or is entitled to receive rent for the use of any rental unit, or the

agent, representative or successor of any of the foregoing.

- F. Lease. Any form of rental agreement, whether written or oral.
- G. Rental unit. A habitable structure offered for rent and used as a place of permanent or customary and usual abode of a residential household. Rental units include a building, a group of buildings or a portion of a building used and/or designed as dwellings. A rental unit shall not include:
 - 1. A room or any other portion of any residential unit which is occupied by the landlord or a member of the landlord's immediate family.
 - 2. Properties where four (4) or fewer dwelling units are located on one (1) lot, including single-family, duplex, tri-plex, or four-plex homes, and accessory dwelling units.
 - 3. A mobile home.
 - 4. Housing accommodation in hotels, motels, inns, tourist homes and boarding or lodging houses.
 - 5. A unit in a common-interest development where units are owned by different individuals who share ownership of common areas and facilities.
 - 6. An on-site manager's living unit.
 - 7. A unit where the tenancy is an express condition of, or consideration for, employment by a landlord.
- H. Residential household. Any person or group of persons entitled to occupy a rental unit under a valid lease or rental agreement (written or oral) with the landlord.
- I. Special-circumstances households. An eligible residential household with any of the following characteristics:
 - 1. At least one (1) member is sixty-two (62) years of age or older.
 - 2. At least one (1) member qualifies as disabled as defined by Title 42, United States Code, Section 423 or handicapped as defined by California Health and Safety Code Section 50072.
 - 3. A household with one (1) or more minor children (under 18 years of age) who are legally dependent (as determined for federal income tax purposes).
 - 4. A household that has occupied their unit as their primary residence for five (5) or more consecutive years.
- J. Tenant. A tenant, subtenant, lessee, sublessee or any other person entitled to use or occupancy of a rental unit under a valid lease or rental agreement (written or oral) with the landlord.
- K. Third-party agency. Relocation assistance specialist, agency and/or other third-party agency hired by the City and paid for by the landlord to assist with the relocation assistance process set forth in this ordinance.
- L. Primary Residence. A primary residence is a dwelling unit where a person has been physically present and that the person regards as home. A person may only have one primary residence at

any given time. Evidence of a person's primary residence includes, but is not limited to, documentation from income tax statements or a driver's license. If a property has multiple dwelling units, including an accessory dwelling unit or apartment complex, each dwelling and accessory dwelling shall be considered a separate residence subject to the primary residence requirement.

8.56.040 Requirement to Provide Relocation Assistance

Any landlord that shall cause the permanent displacement of residential households shall be subject to paying eligible residential households relocation assistance in accordance with the provisions of this Chapter.

8.56.050 Relocation Assistance

- A. The landlord shall provide relocation assistance, where required by Sec. 8.56.040, to eligible residential households in accordance with the following requirements, unless an alternative mitigation strategy as defined in section 8.56.090, below, has been approved by the City:
1. A full refund of a tenant's security deposit, except for funds that may be necessary to repair tenant's damage to property in rental units that will be reoccupied before undergoing renovation or demolition.
 2. A sixty (60) day subscription to a rental agency service. The costs of a rental agency shall be fair and reasonable based on current market pricing.
 3. The cash equivalent of three (3) months' rent shall be paid to the residential household renting a unit. The amount to be paid shall be calculated at the time the relocation application is approved by the City based on the most recent Department of Housing and Urban Development's Fair Market Rent calculation for San Mateo County for a similar-sized unit with the same number of bedrooms.
 4. Special-circumstances households will be paid one (1) additional month of rent for a maximum of four (4) months' rent.
 5. An administrative fee as set forth in Section 8.56.060(F) below.

8.56.060 Relocation Assistance Payments

- A. Third-party processing. The City shall hire a third-party agency to provide tenant relocation assistance. Landlord shall pay the fees for the third-party agency and shall deposit sufficient funds with the third-party agency and/or City (as determined by the City) when an application is filed to cover the estimated cost of the relocation assistance services. The third-party agency shall provide bilingual assistance, as necessary, and hold an informational meeting with tenants, respond to questions, verify current household incomes, disperse checks to eligible households and provide an accounting of dispersed funds to the landlord and City.
- B. Payments escrow account. The landlord shall open an escrow account with an entity qualified to provide escrow services within the State of California and deposit relocation assistance funds into that account no later than thirty (30) days after filing an application that will be used by the third-party agency for relocation assistance payments to eligible residential households. The amount of the

deposit shall be determined by the Community Development Director or his/her designee and unused funds shall be returned to the landlord after all relocation assistance has been paid as verified by the third-party agency.

- C. Relocation assistance claims. Tenants requesting relocation assistance must provide the necessary information to the third-party agency who will determine their eligibility for relocation assistance and eligible residential households must complete a claim form. Tenants must file a claim before the date to vacate as stated on the notice of termination in order to be eligible for relocation assistance payments. After determination of eligibility, half of the relocation assistance shall be paid to eligible residential households within fifteen (15) days of the date the claim form is submitted to the third-party agency and the remaining half shall be paid when the household vacates the unit.
- D. Payments to eligible residential households. Relocation assistance is paid per rental unit, not per tenant. If multiple households or individuals occupy a rental unit, relocation assistance shall be paid to the household or individual entitled to occupy a rental unit under a valid lease or rental agreement (written or oral) with the landlord.
- E. Verification of payment. Before issuance of demolition permits, building permits or other City permits that would result in the removal of a rental unit subject to this Chapter, the City must receive verification from the third-party agency that all eligible residential households who applied and qualified for assistance have received relocation assistance. This verification shall be submitted in a form acceptable to the City.
- F. Administrative costs. The City shall collect the administrative fee in an amount to be set by resolution of the City Council.

8.56.070 Tenant Displacement Notices

- A. Notice of intent. No later than thirty (30) days after filing an application, either the landlord or the landlord's agent shall notify each residential household residing on the subject real property that the landlord has filed an application with the City. The notice shall be sent by regular and certified mail and posted on the door of each rental unit. The landlord must submit evidence of compliance with this section to the City in order for the application to be deemed complete.

For each such notice, the landlord shall use a notice of intent form provided by the City that shall contain the following information:

1. The name and address of the current property owner and the project developer;
2. A description of the application(s) being filed and a general time frame to complete the work described in the application;
3. An explanation of the relocation assistance available to eligible residential households and special-circumstances households, information on eligible residential household incomes and the procedure for submitting claims for relocation assistance;
4. Contact information for the third-party agency that will be assisting with the relocation assistance process. This contact information and a brief explanation of the

purpose of the notice shall be translated into non-English languages as provided by the City;

5. The residential household's right to receive written notice for each hearing and right to appear and be heard at land use hearing, if applicable; and
 6. Other information deemed necessary or desirable by the Community Development Department.
- B. Notice of intent verification. The landlord or agent of the landlord shall submit to the City a duplicate copy of the notice of intent form given to each residential household and a declaration indicating that each notice was sent by regular and certified mail and posted on the door of the rental unit.
- C. Notice of application approval. No later than fifteen (15) days after receiving final approval of a project application (including any appeal period), the landlord or the landlord's agent shall notify each residential household residing on the subject real property that the application has been approved. The notice shall be sent by regular and certified mail and posted on the door of each rental unit.
- D. Notice of termination. Landlord shall provide a written notice of termination to all tenants subject to displacement pursuant to Civil Code Section 1946 and Section 1946.1.

8.56.080 Landlord Submittal Requirements

Concurrent with the filing of an application, the landlord shall provide the Community Development Department with the address number of each unit in the rental development, the monthly rents for those units and the names of every member of the residential household who is a signatory on a written lease or rental agreement for that unit, the household income as shown on the lease or rental agreement and the number of household members included on the lease or rental agreement. Where there is no written lease or rental agreement, the landlord shall provide the name of every person the landlord considers to be a resident under an oral lease or rental agreement.

8.56.090 Alternative Mitigation

- A. All applications governed by this section shall be required to submit the required information; however, the landlord may also submit an alternative mitigation strategy that meets the goals of this section. An alternative strategy may include, but shall not be limited to, providing other mitigation and concessions to tenants such as permanent relocation of displaced tenants into similar apartments on-site or nearby, ongoing rent concessions or suitable notice and other elements of mitigation that would serve the goals and purposes of this Chapter. Prior to submitting any alternative mitigation strategy, a landlord shall discuss the strategy with existing tenants and make good faith efforts to arrive at an alternative mitigation strategy that is acceptable to existing tenants. Evidence of tenant agreement with an alternative mitigation strategy may be submitted to the City for review. With each such alternative submission, the landlord shall provide complete information as determined necessary by the Community Development Director.

After an alternative mitigation strategy is submitted, the landlord shall provide notice of the

submission by regular and certified mail and posted on the door of each rental unit. Tenants shall have fourteen (14) days from the date notice is posted or mailed, whichever is later, to submit comments on the alternatives to the Community Development Director.

Alternative mitigation proposals shall be approved or denied by the Community Development Director. Within seven days of the decision, the City shall provide notice of the decision to the landlord and all tenants. The Landlord or tenants may appeal any decision of the Community Development Director to the City Manager or designee within fourteen (14) days after notice is provided.

- B. Landlord's temporary withdrawal of residential rental units from the market shall not be subject to this Chapter for any units where, in the opinion of the Community Development Director, the landlord has provided suitable alternative temporary replacement housing accommodations on-site or nearby.

8.56.100 Administrative Regulations

The Community Development Director may, from time to time, promulgate regulations implementing the provisions of this Chapter, violations of which shall be considered a violation of this section.

8.56.110 Mitigation Not Exclusive

Nothing in this section shall be interpreted to interfere with the City's ability and/or obligation to require relocation assistance for displaced tenants who are not covered by this Chapter.

8.56.120 Retaliation prohibited

Commencement of eviction proceedings against a tenant for exercising his or her rights under this Chapter shall be considered a retaliatory eviction. Under Civil Code Section 1942.5, it is illegal for a landlord to retaliate against a tenant for lawfully and peaceably exercising his or her legal rights.

8.56.130 Failure to comply

A landlord's failure to comply with any requirement of this Chapter may be asserted by a tenant as an affirmative defense in an action brought by the landlord to recover possession of the rental unit. Additionally, any attempt to recover possession of a rental unit in violation of this Chapter shall render the landlord liable to the tenant for damages permitted by law in a civil action for wrongful eviction. The tenant may also seek injunctive relief and money damages for wrongful eviction and/or failure to pay relocation assistance. A landlord may seek money damages for a tenant's failure to reimburse relocation assistance if the tenant ultimately fails to vacate the rental unit after receipt of a notice of termination. The prevailing party in an action for wrongful eviction and/or failure to pay relocation assistance or reimburse relocation assistance shall recover costs and reasonable attorneys' fees.

SECTION 3. SEVERABILITY. If any section of this ordinance, or part hereof, is held by a court of competent jurisdiction in a final judicial action to be void, voidable or unenforceable, such section, or part hereof, shall be deemed severable from the remaining sections of this ordinance and shall in no way affect the validity of the remaining sections hereof.

SECTION 4. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION. The City Council hereby finds that this ordinance is not subject to the provisions of the California Environmental Quality Act ("CEQA") under Sections 15378 and 15061(b)(3) of the of the CEQA Guidelines.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect 30 days following adoption.

INTRODUCED on the ___ day of _____, 2019.

PASSED AND ADOPTED as an ordinance of the City of Menlo Park at a regular meeting of said City Council on the ___ day of _____, 2019, by the following vote:

AYES:	Councilmembers:
NOES:	Councilmembers:
ABSENT:	Councilmembers:
ABSTAIN:	Councilmembers:

APPROVED:

Mayor

ATTEST:

Judi A. Herren, City Clerk

RESOLUTION NO. 6488**RESOLUTION OF THE CITY COUNCIL ESTABLISHING THE COMMUNITY HOUSING FUND TO ASSIST VERY-LOW INCOME TENANTS WITH RELOCATION ASSISTANCE**

WHEREAS, there are 12,347 residential units in Menlo Park. Of those, 6,927 (or 56 percent) units are owner occupied and 5,420 (or 44 percent) units are tenant occupied. In the Belle Haven neighborhood, 57 percent of the total population are tenants;

WHEREAS, the City of Menlo Park currently does not regulate rent increases or reasons for evictions from residential property and certain aspects of public peace, health, and safety are not adequately protected due to the lack of regulation;

WHEREAS, The California Housing Partnership Corporation estimates there is a shortage of 25,882 affordable rental homes to accommodate low-income renters in San Mateo County, which has a population of 748,732 and 106,289 renting households, according to the U.S. Census;

WHEREAS, the report Displacement in San Mateo County: Consequences for Housing, Neighborhoods, Quality of Life, and Health found that after being displaced, only 21 percent of households reported staying in the same neighborhood (within 1 mile of their previous home). Thirty-three percent of households left San Mateo County, generally moving to the Central Valley or eastern communities in the East Bay;

WHEREAS, the rents in San Mateo County and Menlo Park in particular have been steadily increasing. Increasing rents combined with a housing shortage places substantial pressure on the existing city residents who rent housing. In particular, rising rents can lead to tenant displacement of longstanding residents;

WHEREAS, on August 22, 2017, the City Council directed City Staff to prioritize housing policies, with tenant relocation assistance being part of the priority one recommended policies;

WHEREAS, according to the Legal Aid Society of San Mateo County ("Legal Aid"), at least 20 "no fault" eviction notices were issued within the past 32 months in Menlo Park and this sample of eviction activity, self-reported by the Menlo Park residents who elected to consult a lawyer, is a fraction of the total. Legal Aid further reports that at least an additional 10 Menlo Park households reported rent increases of more than ten percent (10%) during the past 32 months. Again, this fractional sampling does not capture the full-scale of significant rent increases in the city;

WHEREAS, this data is also supported by reports received by the City from tenants and community organizations that indicate at least 20 instances of "no fault" evictions and at least 10 instances of tenants having received rent increase notices greater than 10 percent (10%) since December 2015;

WHEREAS, tenants evicted in Menlo Park are forced to incur substantial costs related to new housing including, but not limited to, move-in costs, moving costs, new utility hook-ups, payments for temporary housing, and lost work time seeking housing. Move-in costs commonly

include first and last month's rent plus a security deposit equal to one month's rent, leading to total relocation expenses in excess of three months' rent;

WHEREAS, the impacts of evictions are particularly significant on low-income, elderly, and disabled tenants and tenants with minor children, justifying an additional payment for households with these tenants;

WHEREAS, on March 12, 2019, the City Council adopted a tenant relocation ordinance which applies to a limited number of displacement; and

WHEREAS, in light of the numerous concerns noted herein, including but not limited to, the current and immediate threat to the public peace, health and safety by the fact that tenants are not adequately protected due to the lack of regulation and the adverse impacts that would result from displacement of City residents, this measure is necessary to preserve the public peace, health, and safety of the community.

NOW, THEREFORE, IT IS RESOLVED that:

1. The City Council hereby establishes a Community Housing Fund to assist very-low income tenants with relocation assistance in accordance with the program guidelines presented to the City Council on the twelfth of March, 2019, incorporated herein as Exhibit A.
2. This resolution shall become effective upon the effective date of Ordinance No. 1053 (tenant relocation ordinance).

I, Judi A. Herren, City Clerk of the City of Menlo Park, do hereby certify that the above and foregoing City Council resolution was duly and regularly passed and adopted at a meeting by said City Council on the twelfth day of March, 2019, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Official Seal of said City on this twelfth day of March, 2019.

Judi A. Herren
City Clerk

EXHIBIT A

Community Housing Fund Program Guidelines Adopted by City Council Resolution No. 6488 Dated March 12, 2019

1. Purpose of Fund

The primary purposes of the Community Housing fund is to provide financial assistance to lower income households not covered by the City's tenant relocation ordinance in an attempt to avoid displaced households from becoming homeless due to the inability to pay increased rent.

2. Definitions

For the purposes of these guidelines, the terms below shall have the following meanings.

2.1 "Base Rent" means the rent for a rental unit required to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase. Base rent shall not include ancillary services including, but not limited, to pet deposits, storage, additional parking or utility pass-throughs.

2.2 "Administrator" shall mean the city manager or designee

2.3 "Household" shall have the meaning defined in Section 6.1.1 of the City's Below Market Rate Guidelines.

2.4 "Rental Unit" means any housing unit offered for rent or lease in the City of Menlo Park, except Rental Unit shall exclude:

- a. Any housing unit that is subject to a recorded affordable housing regulatory agreement that requires that the housing unit be rented at restricted rents to income-qualified tenants as defined by the regulatory agreement;
- b. Secondary Dwelling Units as defined by Chapter 16.79; and
- c. Owner occupied Single Family Residences where a room is rented to a third party.

2.5 "Significant Rent Increase" means a proposed rent increase that raises the rent, or proposed multiple rent increases that cumulatively raise the rent during any twelve (12) month period, to an amount more than the previous year's Consumer Price Index for all Urban Consumers for the San Francisco-Oakland-Hayward area, published by the U.S. Department of Labor, Bureau of Labor Statistics (CPI) plus five percent (5%) above the base rent that was in place at the beginning of such twelve (12) month period.

2.6 "Tenant" means a tenant, subtenant, lessee, sublessee or any other person entitled to use or occupancy of a rental unit under a valid lease or rental agreement (written or oral) with the landlord.

3. Eligibility Criteria

3.1 *Requirements.* In order to be eligible for assistance under the Community Housing Fund, tenants must meet all of the following criteria:

- a. Tenant must reside within incorporated Menlo Park as its primary residence.

- b. The tenant household shall earn no more than 60 percent of the area median household income for San Mateo County as adjusted for household size according to the latest data published by the Department of Housing and Urban Development (HUD). For reference, the table below shows the 2018 qualifying income by household size.

Household size	HOME limit (60% AMI)
1-person	\$61,620
2-persons	\$70,380
3-persons	\$79,200
4-persons	\$87,960
5-persons	\$95,040
6-persons	\$102,060
7-persons	\$109,080
8-persons	\$116,160

- c. Tenant was forced to relocate following service of significant rent increase.
- d. Tenant resided in the rental unit for 12 months or more.

3.2 *Exceptions.* The following Tenants shall not be eligible for assistance.

- a. Tenants who are currently receiving housing benefits in the form of Section 8 rental subsidies or other government assistance.
- b. Tenants who have previously received any form of tenant relocation assistance from a landlord.
- c. Tenants having assets as defined in the City's BMR Guidelines in excess of \$50,000 or as determined by the Administrator and published in the program guidelines.

4. Relocation Assistance Payments

4.1 *Payment amount.* [City Council should select one of the below three alternatives.]

- a. Alternative 1 (Emergency Security Deposit): Eligible tenants may receive a relocation assistance payment in the amount of one month of fair market rent for a comparable size rental unit as established by HUD.
- b. Alternative 2 (Tiering based on tenant tenure):
- For tenants residing in the unit for 12-24 months: one (1) month of fair market rent for a comparable size rental unit as established by HUD.
 - For tenants residing in the unit for 25-36 months: two (2) months of fair market rent for a comparable size rental unit as established by HUD.
 - For tenants residing in the unit for over 36 months: three (3) months of fair market

rent for a comparable size rental unit as established by HUD.

c. **Alternative 3 (Incentive to stay in Menlo Park):**

- For tenants who find a rental unit outside of Menlo Park: one (1) month of fair market rent for a comparable size rental unit as established by HUD.
- For tenants who find a rental within Menlo Park: two (2) months of fair market rent for a comparable size rental unit as established by HUD.

4.2 Payment Disbursement. In its discretion, the City may elect to make payments directly to the new landlord or to the tenant. If payments are made to the tenant, the tenant shall provide the City with a receipt showing that they have tendered a security deposit or first month rent to a new landlord.

5. Community Housing Fund Administration

5.1 Administration. The Administrator shall be responsible for administering funds under this program.

5.2 Applications. Requests for relocation assistance payments may be submitted to the Director for review and determination in accordance with these guidelines. The Administrator's decision shall be final.

5.3 Reports. The Administrator shall provide regular reports to the Housing Commission on the status of the program and accounting of the funds.

5.4 Staff Guidelines. The Administrator shall have the authority to develop an application form and program administrative guidelines to ensure proper use of funds.

5.5 Privacy. The Administrator shall keep Tenant's financial information confidential.

6. Entitlement to Funding

6.1 No representations. Nothing in these guidelines shall guarantee entitlement to payment from this the Community Housing Fund. Further, the fund has a limited amount of funding and no permanent revenue stream has yet been identified. Neither the City nor its private partners have made any representation that they intend to supplement the fund after it has been depleted.

6.2 Disbursement order. The fund shall be administered to complete applications on a first come, first served basis.