

Board of Supervisors Unincorporated Services Committee
Staff Report

Rental Housing Registry and Minimum Tenants Rights Ordinance

July 27, 2022

Background

In 2020, the Community Development Agency's (CDA) Housing and Community Development Department (HCD) began its work to explore possible tenant protection ordinances in the Unincorporated County when it received the Partnership for the Bay's Future Challenge Grant.

The Rental Housing Registry and Minimum Tenants Rights Ordinance (Ordinance) before your Committee today first came to your Committee in March, 2022 as the Rent Registry and Proactive Rental Inspection Ordinance. After a subsequent hearing at the Transportation and Planning Committee hearing, the rental inspection portion of the Ordinance was removed to be considered as a stand-alone ordinance at a later date.

Draft Proposed Ordinance

The proposed Ordinance is attached as Appendix A. The key aspects of the Ordinance are outlined below:

- 1. Enforcement of the Ordinance.** This ordinance will be enforced by the Community Development Agency Director or his designee.
- 2. Registration required for all rental units.** Each rental housing unit and mobile home park space will be required to be registered with the County. A rental registry is needed to ensure proper information is recorded regarding available rental housing resources. Establishing a rental registration system provides important information for the County, including how to contact property owners or their agents and ensures that all units are subject to the same standards. Only hotels, motels and inns, and licensed care facilities are exempt from the registration
- 3. Anti-harassment and other prohibited activities.** Property owners are prohibited from engaging in harassing activities, including threatening tenants, failing to provide services or perform repairs, abusing right to access, and interfering with the tenant's right to quiet use and enjoyment. Property owners will ensure that tenants are provided with a copy of their rights under this ordinance.
- 4. Requirement to offer written rental agreement.** Property owners must offer tenants a written agreement/lease that provides for the terms and requirements of the tenancy.
- 5. Fees established.** The annual fees for this program will commence January 1, 2024, and be established by the Board of Supervisors by resolution following a fee study.

6. Registering notice of terminating tenancy. The property owner must register all termination notices in the rental registry. This is critical data for understanding the rental market in the Unincorporated County.

Recommendation

Staff recommends the Unincorporated Services Committee:

1. Take public testimony, and
2. Recommend approval of the draft proposed Ordinance to the Board of Supervisors.

APPENDIX A: Proposed Ordinance.

AN ORDINANCE ADDING CHAPTER 6.64 OF THE ALAMEDA COUNTY ORDINANCE CODE TO ESTABLISH A RENTAL HOUSING REGISTRY AND MINIMUM TENANT RIGHTS

The Board of Supervisors of the County of Alameda, State of California, does ordain as follows:

SECTION I

1. The Board of Supervisors of the County recognizes that rental housing is of tremendous importance and that establishing a Rental Registration Ordinance is necessary to protect the health, safety and welfare of the public. One of the ways this shall be accomplished by requiring rental housing to be registered with the County.
2. Rental housing provides needed, affordable housing for more than 50% of the residents of Unincorporated Alameda County and is a valuable asset that should be preserved and maintained.
3. According to the 2018 American Community Survey Census, there are more than 19,000 rental units within the Unincorporated County. A rental registry is needed to ensure proper information is recorded regarding available rental housing resources. Establishing a Rental Registration system provides important information for the County, including how to contact property owners or their agents, and ensures that all units are subject to the same standards, creating a level playing field for all property owners.
5. To promote public health, safety, and welfare, tenants should be free from discrimination, harassment, and retaliation by landlords and property managers.
6. The Board of Supervisors recognizes there must be an adequate funding source in order to accomplish this objective. To provide adequate funding for the program under this chapter, an annual fee will be assessed..

SECTION II

Chapter 6.64 is hereby added to the Alameda County Ordinance Code and reads as follows:

Chapter 6.64 RENTAL HOUSING REGISTRY

6.64.010 Findings and Purpose

The purpose of this Chapter is to establish a registry of all rental housing units in the Unincorporated Areas of Alameda County, including, among other things, information about rental rates and eviction notices.

The administration of this program is delegated to and housed in the Housing and Community Development Department.

6.64.020 Director Authority to Establish Procedures, Implement and Enforce Program

Except as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Director of the Housing and Community Development Department

of the Community Development Agency or their designee. The Director may adopt such rules, regulations, procedures, and forms as may be required to implement this Chapter.

6.64.030 Definitions

“Director” means the Director of the Housing and Community Development Department, responsible for implementing and overseeing the Rental Registration Program.

“Engage in the Business of Rental Housing” means renting or offering to rent a Rental Housing Unit or Mobile Home Park Space to a resident.

“Contact Representative” means a representative of the Property Owner who will be the contact for the Rental Registration Program, as detailed in Section 6.64.110.

“Mobile Home” means a structure designed for human habitation and for being moved on a street or highway under permit pursuant to California Vehicle Code Section 35790, including but not limited to a manufactured home, as defined in the California Health and Safety Code, a recreational vehicle, as defined in California Civil Code Section 799.24, a commercial coach, as defined in California Health & Safety Code Section 18001.8, or factory-built housing as defined in California Health & Safety Code Section 19971.

“Mobile Home Park Space” is the property upon which a Mobile Home is parked and for which is charged to the occupant of that space.

“Property Owner” means the person, persons, or entity holding fee title to a Rental Housing Unit, Property, Mobile Home that is rented to a Tenant, or Mobile Home Park and their agent, representative, or successor.

“Person” means an individual, corporation, partnership, association, or other entity.

“Registration Fee” means the fee that is payable each year by Property Owners in the Unincorporated Area of Alameda County.

“Rental Housing Unit” means a single unit providing living facilities for one or more persons regardless of zoning or permitting status that is rented or available for rent to one or more residents, together with all Common Areas. This includes a Mobile Home if rented from the Property Owner in a Mobile Home park. This includes a room or a portion of a room in an unlicensed facility or group home. This includes short-term vacation rentals, including individual rooms or portions of rooms in short-term vacation rentals.

“Property” means any real property with one or more Rental Housing Units or Mobile Home Park Spaces. The term “Property” shall also include tracts, lots, easements or parcels of land and any and all improvements thereon.

“Tenant” means a residential tenant, subtenant, lessee, sublessee, or any other person entitled by written or oral rental agreement, or by sufferance, to the use or occupancy of a Rental Housing Unit.

“Termination Notice” means the notice informing a tenant household of the termination of its tenancy which includes but is not limited to notices governed by California Civil Code Sections 1946, 1946.1, 1946.2, 1954.535, and California Code of Civil Procedure Section 1161.

6.64.040 Applicability

All Rental Housing Units and Mobile Home Park Spaces in the Unincorporated Areas of Alameda County are subject to the registration requirements of this Chapter, including transitory residential units in hotels, motels, inns, and vacation rentals. Group homes, transitional living facilities, and other businesses that provide shared housing must also register.

6.64.050 Registration Required for all Rental Housing Units and Mobile Home Park Spaces

- A. It is unlawful for any Property Owner to Engage in the Business of Rental Housing, unless:
1. Each Rental Housing Unit and Mobile Home Park Space is registered with the County;
 2. The Property Owner has paid the annual Registration Fee; and
 3. Has obtained an annual business license, if required under Chapter 3.04.030.
- B. A Rental Housing Unit or Mobile Home Park Space is registered with the County’s Community Development Agency when the Property Owner submits to the County a completed registration form in a format determined by the Director that is signed under penalty of perjury. The registration, which may be in electronic form, and may be part of an online database system, must contain, at minimum, the following information:
1. Description of the Property, including, but not limited to, the street address and Assessor’s Parcel Number, and whether or not it is a Single Family, Multi-family property or Mobile Home Park Space;
 2. Rental Housing Unit number and address or, if none, other description of all housing units and Mobile Home Park Spaces on the Property;
 3. Name and current contact information for all Owners of the Rental Housing Unit or the Mobile Home park;
 4. Name and current contact information for the Contact Representative, as described in section 6.64.110, below;
 5. Name, address, email address, and telephone number of the person or entity that a Tenant is to contact when requesting repairs be made to their

Rental Housing Unit and the contact's business relationship to the Property Owner;

6. The rent charged for each Rental Housing Unit or Mobile Home Park Space, which is to be updated each year;
 7. Property Owner confirmation that it has provided all required written notices to tenants of their rights, including rights under this ordinance, other local ordinances, and any rights conveyed by AB 1482 (2019);
 8. Any other information reasonably required by the Director to carry out this Chapter, which will be described on the registration form.
- C. Effective July 1, 2023, the registration requirement established by this section shall go into effect. After the initial registration, the Property Owner must update their registration for each Rental Housing Unit annually by July 1, or within 30 days of a change of ownership.

6.64.060 Anti-Harassment and Other Prohibited Activities

- A. No Property Owner 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 services under the 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, County, or local 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 Property Owner's right to access the Property or Rental Housing Unit;
 5. Remove personal property of the Tenant(s) from the Rental Housing Unit;
 6. Influence or attempt to influence the Tenant(s) to vacate the Rental Housing Unit by means of fraud, intimidation, or coercion (including but not limited to threats based on immigration status);
 7. Offer payment or any other consideration, in return for the Tenant(s) vacating the Rental Housing Unit, more often than once every six (6) months;
 8. Threaten the Tenant(s) by word or gesture with physical harm;

9. Interfere with the Tenant's (s') right to quiet use and enjoyment of the Rental Housing Unit;
 10. Refuse to accept or acknowledge receipt of lawful rent from the Tenant(s);
 11. Refuse to cash a rent check for over thirty (30) days whether from a Tenant or a third party on behalf of the Tenant;
 12. Interfere with the Tenant's (s') right to privacy;
 13. Request information that violates the Tenant's (s') right to privacy;
 14. Other acts or omissions that are repeated or are of such significance as to substantially interfere with or disturb the Tenant's (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 Rental Housing Unit;
 15. Retaliate against the Tenant(s) for the Tenant's (s') exercise of rights under this chapter or under State or Federal law; or
 16. Discriminate against the Tenant(s).
- C. Nothing in this section prohibits the lawful eviction of a Tenant by appropriate legal means.
- D. In addition to the notice of a rent increase required by Civil Code Section 827(b), and at the time when a Property Owner provides notice of a rent increase, the Property Owner shall also provide notice of this Section. The required language to be included describing this section shall be provided by the County.cLEAN

6.64.070 Requirement to Offer Written Rental Agreement

- A. Property Owners must offer Tenants a written agreement, or lease, for the rental of the Rental Housing Unit. The agreement must cover the rights and responsibilities of both the Property Owner and the Tenant or Mobile Home owner. Signing a lease will be considered an offer if signed by the Property Owner, and an acceptance if countersigned by the prospective Tenant.
- B. Existing Tenancies. Within 90 days of the effective date of this ordinance, any Tenant renting residential real property or a Mobile Home may request a written lease from their Property Owner, provided such Tenant has not previously received a written notice of lease or rental agreement violation pursuant to Code of Civil Procedure Section 1161 and such violation remains uncured. The Tenant shall do so via written notice to the Property Owner. The Property Owner shall, upon receipt of such notice, offer to said Tenant a written lease on terms substantially similar to those of the existing rental arrangement

6.64.080 Fees

- A. Registration Fee. Each Property Owner subject to this Chapter must pay a fee per Rental Housing Unit, as established by the Board of Supervisors, to support the rental registry program. This fee must be paid annually by July 31, beginning in 2023. If the fee is not established by the Board by July 31, 2023, then by the fee becomes payable on the first July 31 after the Board's establishment of the fee.
- B. Payment of Fees.
 - 1. The annual registration fee must be paid online, by mail, or in person, pursuant to such forms and procedures as may be established by the Director.
 - 2. The fee is payable by the Property Owner to the County. The Property Owner may charge the Tenant up to one half (50%) of the regular annual fee on a reimbursement basis. While the Property Owner may pass 50% of the fee to the Tenant, the fee is not "rent" and cannot form the basis of an eviction for non-payment.

6.64.090 Penalties for Late or Unpaid Fees

Penalties for late payment or nonpayment of fees may be established by the Board of Supervisors. No portion of late payment penalties may be passed on to Tenants.

6.64.100 Registering Notice of Terminating Tenancy

- A. The notice of termination provided to Tenants must contain the reason for the termination of tenancy.
- B. Property Owner must provide a copy of the notice of termination to the Alameda County Housing and Community Development Department (HCD) within ten (10) days of delivery to the Tenant(s). Property Owner must attach a copy of the applicable rental agreement or contract to the notice of termination when submitting the notice of termination to HCD.

6.64.110 Contact Representative

- A. Each Property Owner must designate a Contact Representative with full authority to act on behalf of the Property Owner for all purposes under this Chapter, including the acceptance of service of all notices from the County. The Property Owner of the Rental Housing Unit or Rental Housing Property may act as the Contact Representative.
- B. All official notices served on the Contact Representative shall be deemed to have been served on the Property Owner.

6.64.120 Education and Outreach

Upon registration pursuant to section 6.64.050, the Director shall make an informational notice available to Tenants and Property Owners concerning their rights and responsibilities under this Chapter.

6.64.130 Enforcement

Nothing in this Chapter shall limit or prohibit the authority of County officers, agents or employees from enforcing any other provision of this Code or any state or federal law under their jurisdiction.

Any Tenant may bring a civil action to enforce their rights under this Chapter, including but not limited to a determination of whether the Property Owner has violated section 6.64.060.

SECTION III

This ordinance shall take effect and be in force on and after January 1, 2023. Before the expiration of fifteen (15) days after its passage it shall be published once with the names of the members voting for and against the same in the Inter-City Express, a newspaper published in the County of Alameda.

Adopted by the Board of Supervisors of the County of Alameda, State of California, on the ____ day of _____ 2022, by the following called vote:

AYES:

NOES:

EXCUSED:

ABSTAINED:

KEITH CARSON
President of the Board of Supervisors

ATTEST:
Clerk of the Board of Supervisors,

By: _____
Deputy Clerk

APPROVED AS TO FORM:
DONNA R. ZIEGLER, COUNTY COUNSEL

By: _____
Heather Littlejohn Goodman
Deputy County Counsel