

**SAN RAFAEL MUNICIPAL CODE CHAPTER 10.100 IMPLEMENTATION GUIDELINES**

**RENTAL HOUSING DISPUTE RESOLUTION ORDINANCE NO. 1971**

Issued: July 17, 2019

- 1. Title.** Sections 1 through 9, inclusive, and Appendix A: Forms and Model Documents, are individually and collectively referred to as the "Guidelines," as authorized by San Rafael Municipal Code ("SRMC") Chapter 10.100 – Rental Housing Dispute Resolution (hereinafter "the Ordinance.")

- 2. Definitions.** Capitalized terms used in these Guidelines have the meanings provided below. Capitalized terms not otherwise defined in the Guidelines have the meanings provided in the Ordinance.
- a. "City" means the City of San Rafael.
  - b. "Ordinance" means the Rental Housing Dispute Resolution Ordinance No. 1971.
  - c. "CDD Director" means the City Community Development Department Director or their designee unless otherwise specified.
  - d. "Guidelines" means any written regulations and forms for the administration and implementation of this Chapter adopted by the CDD Director.
  - e. "Dwelling unit" means one or more rooms designed, occupied or intended for occupancy as separate living quarters, with a kitchen, sleeping facilities, and sanitary facilities for the exclusive use of one household, but not including any such unit occupied in whole or in part by the property owner or the property owner's family members, including parents, children, brothers, sisters, aunts, uncles, nieces, and/or nephews.
  - 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. "Tenant" means a person entitled by written or oral agreement, or by sufferance, to the use or occupancy of a Dwelling Unit.
  - h. "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.
  - i. "Base Rent" means the rental amount to be paid by the tenant to the landlord in the month immediately preceding the effective date of the rent increase.
  - j. "Rent Increase" means any upward adjustment of the base rent amount.
  - k. "Noticed Rent Increase Date" means the date of a Rent increase properly noticed under Civil Code section 827 and SRMC § 10.100.040.
  - l. "Mediation" or "Dispute Resolution" 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.
  - m. "Good Faith" participation shall have the meaning given it in SRMC § 10.100.050(D)(1).

- n. "Designated Service Provider" means a party or organization selected by the CDD Director to provide Mediation services and other tasks necessary to implement the program and procedures contained in this Chapter and any associated Guidelines.

### 3. Applicability

#### a. Dwelling Units Covered by the Ordinance.

- i. The Ordinance applies to all Dwelling Units in the San Rafael city limits, 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 San Rafael Municipal Code, which is hired, rented, or leased to a household within the meaning of California Civil Code Section 1940.

#### b. Dwelling Units Excluded by the Ordinance.

- i. Any Dwelling Unit that is owned or operated by any government agency; or
- ii. 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.

#### **4. Required Notice.**

##### **a. Notice of Tenant Rights.**

- i. The Ordinance requires Landlords to provide a "Notice of Tenant Rights" to Tenants when entering into a new rental agreement, when renewing a rental agreement, and when providing notice of a Rent increase. The Notice of Tenant Rights is required to describe the Mediation service and how to request service. A form Notice of Tenant Rights is included in Appendix A of these Guidelines. If the Landlord does not use the provided form, the required Notice must be printed conspicuously within the lease or rental agreement.
- ii. If the Tenant's rental agreement was negotiated in a language other than English, then the Landlord shall provide the Notice of Tenant Rights in the language in which the rental agreement was negotiated.
- iii. Delivery of a Notice of Tenant Rights can include delivering a copy to the Tenant personally, mailing a copy to the Tenant, or by affixing a copy in a conspicuous place on the property.
- iv. Landlord failure to provide a Tenant with a Notice of Tenant Rights shall render any rental increase notice invalid and unenforceable.

## 5. Mediation Requests.

### a. Timing of Mediation Requests.

- i. A Tenant request for Mediation services must be submitted no more than 10 calendar days after receipt of one or more notice that individually or cumulatively increases Rent more than 5% in any 12-month period.
- ii. A Landlord request for Mediation services may be submitted at any time in advance of, or within 10 days after, providing the Tenant with notice of a Rent increase greater than five percent within any 12-month period.

### b. Form Required. All requests for Mediation shall specify the eligibility for mediation services and provide sufficient information, and any supporting documents or other evidence, for the Designated Service Provider to evaluate whether the applicant is eligible for Mediation. All requests for Mediation shall be submitted to the Designated Service Provider on the Mediation Service Request Form, a copy of which is included in Appendix A of these Guidelines.

### c. Eligibility Determination. Eligibility for the Dispute Resolution program will be made by the Designated Service Provider based on the information provided by the requesting party on the Mediation Service Request Form, and all documents or other pertinent information included and attached to the Mediation Service Request Form. The Designated Service Provider shall provide a notice of eligibility and initiate mediation as specified SRMC § 10.100.050(C).

### d. Consolidating Multiple Requests. 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.

## 6. Good Faith Participation in Mediation Required.

- a. Good Faith Participation Requirements. The Ordinance requires each party to a Mediation to participate in Mediation in Good Faith until the Mediation concludes. Good Faith participation 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.
  - i. Failure to Participate in Good Faith.
    - (1) No Rent increase will be effective unless or until the Landlord of the Dwelling Unit complies with the provisions of the Ordinance by participating in Good Faith as described in Section 10.100.050 throughout the entirety of a Mediation process.
    - (2) If a Tenant fails to participate in Good Faith, the Tenant shall be deemed to have withdrawn their request for Mediation, allowing any Rent increase to be implemented in accordance with the notice requirements identified in California Civil Code section 827.
  - ii. Any aggrieved person may enforce Sections 10.100.050(D) or 10.100.080 of the Ordinance by means of a civil injunctive action. Any person who commits, or proposes to commit, an act in violation of Sections 10.100.050(D) or 10.100.080 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.

**7. Conclusion of Mediation Process.**

a. Options to Conclude the Mediation. The Mediation process will conclude upon the earlier of any of the following three events occurring:

i. Mediation Agreement. If at any point after the Mediation process begins, the parties come to an agreement regarding the dispute, the Mediation process shall terminate upon the execution of an agreement that satisfies the requirements of SRMC § 10.100.050(E)(1), including that the agreement:

(1) Be made in writing and signed by the parties;

(2) State the specific terms of the Mediation agreement including the duration and conditions of the agreement;

(3) 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;

(4) Be legally enforceable against the parties to the agreement;

(5) 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;

OR,

ii. Agreement to Conclude Mediation. At any point after the Mediation process begins, the parties may agree in writing to conclude the Mediation, and such written agreement shall terminate the Mediation process. If the Mediation concludes in this way, no Mediation Agreement or statement will be prepared'

OR,

iii. Mediator Determination and Statement. If at any point after the Mediation process begins, the Mediator determines that no further progress is likely to result from continued Mediation, the Mediator may notify the parties that the Mediator is terminating the Mediation.

b. Maximum Mediation Length. The Mediator shall endeavor to conclude the Mediation expeditiously, with the goal of concluding any Mediation before the actual date increased Rent is due following proper notification of a Rent increase under Civil Code section 827. In no event shall Mediation last longer than 30 calendar days from when the parties are notified, unless the parties agree in writing to extend the Mediation term.



## 8. Tenant Rights

- a. Nothing in the Ordinance affects or impairs any rights or remedies of a Tenant provided by State or Federal law, including but not limited to those related to:
  - i. Tenant's right to quiet enjoyment of the rental premises.
  - ii. The duty of a landlord to make a dwelling unit tenantable and repair all subsequent dilapidations that render it untenable including, but not limited to, providing:
    - (1) Effective waterproofing/weather protection for roof, exterior walls, windows and doors.
    - (2) Plumbing and gas facilities conforming to state and local law at the time of installation, kept in good working order.
    - (3) A water supply providing hot and cold running water and approved under applicable law.
    - (4) Heating conforming to applicable law at the time of installation, kept in good working order.
    - (5) An electrical system, including lighting, wiring and equipment, conforming with applicable law at the time of installation, kept in good working order.
    - (6) Building grounds kept clean, sanitary and free from accumulations of debris, garbage, rodents and vermin.
    - (7) Adequate numbers of garbage/rubbish receptacles kept clean and in good repair.
    - (8) Floors, stairways and railings kept in good repair.
    - (9) Code compliant locks on certain windows and doors.
  - iii. Prohibited Landlord conduct including, but not limited to:
    - (1) Discrimination in housing.
    - (2) Retaliation, threats or other coercive conduct, including threats or discrimination on basis of immigration or citizenship status.
    - (3) Unauthorized entry into Tenant's unit.
    - (4) Unauthorized taking of Tenant's personal property.
  - iv. Rights concerning payment and return of rent and security deposits.
  - v. Rights to required notice prior to termination of rental agreement.

- vi. Rights under Unlawful Detainer statutes, including prohibitions against termination based on immigration or citizenship status.
  
- b. Nothing in Subsection (A) of this Section prohibits the lawful eviction of a Tenant in accordance with California Civil Code section 1946.1 or by any other appropriate legal means.

## **9. Landlord Rights**

Nothing in this Ordinance prohibits the lawful eviction of a Tenant in accordance with California Civil Code section 1946.1, or by any other appropriate legal means.