



## Agenda Report

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**Item #: 23-1224**

**Meeting Date: 11/07/2023**

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**TITLE:**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 9 (LICENSES AND BUSINESS REGULATIONS) OF THE COSTA MESA MUNICIPAL CODE BY ADDING CHAPTER II (REGULATION OF CERTAIN BUSINESSES, ARTICLE 24 (JUST CAUSE RESIDENTIAL TENANT PROTECTIONS)**

**DEPARTMENT: CITY MANAGER'S OFFICE, ECONOMIC AND DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTED BY: JENNIFER LE, DIRECTOR, ECONOMIC AND DEVELOPMENT SERVICES AND NATE ROBBINS, NEIGHBORHOOD IMPROVEMENT MANAGER**

**CONTACT INFORMATION: NATE ROBBINS, NEIGHBORHOOD IMPROVEMENT MANAGER (714) 754-5274**

**RECOMMENDATION:**

1. Introduce and give first reading, waiving further reading, to Ordinance No. 2023-XX Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses), Article 24 (Just Cause Residential Tenant Protections) and/or adopt Ordinance No. 2023-XX, an Urgency Ordinance Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses), Article 24 (Just Cause Residential Tenant Protections).
2. Appropriate a total of \$300,000 from uncommitted American Rescue Plan Funds (ARPA) to provide supplemental rental assistance to households facing no-fault just cause eviction, and authorize the City Manager, City Attorney, and City Clerk to approve and execute new or amended agreements with existing program providers.
3. Allocate \$250,000 from uncommitted ARPA funds to the Law Offices of Jones Mayer, increasing the scope of the contract to include eviction and rental-related legal services, including but not limited to court filings, to enforce the eviction protection provisions of the Costa Mesa Municipal Code regarding unlawful acts in connection with no-fault just cause evictions.
4. Approve the addition of three (3) Full Time Equivalent (FTE) staff positions to implement, monitor, and enforce the subject Ordinance, with an additional FTE at the discretion of the City Manager. The staff positions include one Community Outreach Worker in the Neighborhood Improvement Division, one (1) Senior Planner, and one (1) Code Enforcement Officer II in the Economic and Development Services Department. Appropriation authority is requested at an estimated \$300,000 for the remainder of the fiscal year from uncommitted ARPA (American Rescue Plan Act) Funds to cover the fiscal impact of the additional positions.

**BACKGROUND:**

Assembly Bill 1482

On October 8, 2019, the Governor of California signed into law Assembly Bill 1482 (AB1482), otherwise known as the Tenant Protection Act of 2019. In summary, AB1482 prohibits owners of residential real property from evicting a tenant without just cause when said tenant has occupied a residential unit for a minimum of 12 consecutive months. AB 1482 further delineates just cause evictions into two separate categories: At-Fault and No-Fault. As their names imply, just cause at-fault evictions are triggered when a tenant performs or fails to perform specific actions that cause an owner to terminate a lease, whereas no-fault just cause evictions are actions taken by the owner to terminate a lease absent any wrongdoing by the tenant.

AB-1482 allows owners to issue an at-fault just cause eviction for any of the following:

- Failure to pay rent
- Breach of a material term of the lease
- Allowing or causing a nuisance
- Committing waste
- Failure to execute an extension upon expiration of the lease
- Criminal activity
- Subletting in violation of the lease
- Failure to allow the owner to enter the real property
- Using the property for an unlawful purpose
- An employee or agent of the owner fails to vacate upon being terminated
- Failure of tenant to surrender the property after providing written notice of their intent to surrender

Further, AB-1482 allows owners to issue a no-fault just cause eviction for any of the following:

- Intent to occupy the property by the owner or an immediate family member
- Withdrawal of the property from the rental market
- Complying with an order from a government agency, court, or ordinance
- Intent to demolish or substantially rehabilitate the property
  - “Substantially rehabilitate” is defined as the replacement or substantial modification of any structural, electrical, plumbing, or mechanical system that requires a permit from a governmental agency - or the abatement of hazardous materials, including lead-based paint, mold, or asbestos, in accordance with applicable federal, state, and local laws – that cannot be reasonably accomplished in a safe manner while allowing the tenant to remain living in the unit and that requires the tenant to vacate the property for at least 30 consecutive days.

### Senate Bill 567

On September 30, 2023, the Governor of California signed into law Senate Bill 567 (SB567), which amends AB1482 to place additional requirements on owners of residential property when issuing no-fault just cause evictions, as well as to prescribe new enforcement mechanisms with respect to the provisions of AB1482 and SB567. Many of the new provisions take effect on April 1, 2024. Specifically, SB567 will require owners, when issuing a no-fault just cause eviction based on an intent to occupy the property, to move into the property, or have the designated family member do so, within 90 days of the tenant vacating the unit and to maintain occupancy for a minimum period of 12 consecutive months.

Further, SB567 requires owners, when issuing a no-fault just cause eviction for intent to demolish or substantially rehabilitate the property, to provide written notice to tenants informing them of the intent to demolish or substantially rehabilitate the property, a description of the substantial rehabilitation to be completed, approximate estimated duration of the substantial rehabilitation or expected date the property is to be demolished, and a copy of the building permit or permits required to undertake the substantial remodel or demolition, or a copy of the contract for work not requiring any permits.

Lastly, SB567 prescribes new enforcement mechanisms by making an owner who issues a notice of eviction in violation of AB1482 and/or SB567 liable to the tenant in a civil action for damages of up to 3 times the actual damages, in addition to punitive damages.

Both AB1482 and SB567 require owners, when issuing a no-fault just cause eviction for any of the authorized provisions, to notify the tenant in writing of their right to relocation assistance or rent waiver equal to one month of the tenant's current rent. Relocation assistance must be paid directly to the tenant within 15 days of receiving the notice to vacate. An owner's failure to comply with the requirements of either Bill renders a notice of tenancy termination void.

### Continuation of First Reading

On October 17, 2023, City staff introduced for the first reading a proposed Tenant Protection Ordinance. The City Council voted to continue the first reading of the proposed Ordinance to a future meeting for additional discussion. Further information regarding this initial meeting can be found here:

- [Agenda Report](#)
- [Draft Ordinance](#)
- [Council Meeting Video](#)

### **ANALYSIS:**

#### Costa Mesa Rental Housing Data

Costa Mesa has approximately 43,000 housing units; 60 percent of those housing units are renter-occupied and 40 percent are owner-occupied. Of the total number of housing units, 38 percent are single family detached homes, 10 percent are single family attached homes (e.g., townhomes or condominiums), 50 percent are multifamily homes (e.g., apartment units), and 2 percent are mobile homes.

Approximately 9 percent of Costa Mesa’s housing units were built in the last 15 years, with the majority built between 1960 and 1980. Staff estimates approximately 10 percent of residential properties in Costa Mesa are owned by a corporation or trust, with the majority owned by individuals. However, more information is needed to determine the number of renter-occupied homes owned by a corporation, as in many cases multiple apartment units would likely be located on a single property.

### Costa Mesa Eviction Data

Between July 1, 2023, and October 16, 2023, the City received correspondence from 41 households who were issued a no-fault just cause eviction notice. In the nine (9) days to follow, from October 17, 2023, through October 26, 2023, the City received additional correspondence from 22 households (79 total individuals including children) who were issued mostly no-fault just cause eviction notices.

More recently, on Friday, October 27th, the Constituent Services Team was contacted by the Newport Mesa School District’s (NMUSD) School Community Facilitator at Pomona Elementary regarding four (4) homeless families whose children attend Pomona Elementary School. Among the four families, there are a total of 11 children whose ages range from 1 to 18 years old. The two member Constituent Services Team worked with the City’s Neighborhood Improvement Division staff that operates the Costa Mesa Bridge Shelter to arrange for the families to be immediately placed in motels. Below is a table providing the details for each family situation.

Family	Eviction Type	Current Situation	Total Residents
1	At-Fault	Mother living with son in a motel	2
2	N/A	Mother living with children in a vehicle	6
3	No-Fault	Mother and son homeless (couch surfing)	2
4	No-Fault	Parents living with children in a vehicle	6

It is important to note that the cause of at-fault eviction was due to a default in payment. The rental rate had been increased by 20% since their start of tenancy. The significant spike in the rental rate was untenable based on their monthly income resulting in default of payment. The two families evicted at no-fault were a result of the landlord’s intent to substantially rehabilitate the unit or the property owner’s intent to move into the property.

At least two of the families were living in their vehicles with a total of 12 individuals, nine of whom were children. Others had no livable quarters to move into. At least one family had up to five children.

As a result, the Constituent Services Team worked over the weekend to provide as much assistance as possible, as well as the Community Outreach Supervisor. The City has received requests for assistance from 63 households facing no-fault just cause eviction in the last four (4) months. In addition, within the last year, Code Enforcement received 14 complaints regarding residential evictions; 10 were reportedly

due to substantial rehabilitation, two reported that owners did not want to make requested repairs and eviction notices were issued and two complaints did not contain sufficient information to determine the reported cause of the eviction.

Lastly, based on the most recent report provided by Legal Aid, in the last 90 days they received 30 housing related complaints from the City of Costa Mesa.

Costa Mesa Tenant Protection Ordinance

In an effort to enhance the provisions outlined in AB-1482 and SB-567 and augment our own system of care, and pursuant to City Council direction, City staff prepared a Tenant Protection Ordinance (Ordinance) to provide support to renters facing no-fault just cause eviction. The proposed Ordinance is identical to the provisions outlined in AB-1482 and SB-567 with three (3) noteworthy enhancements:

1. As prescribed by law, SB-567 goes into effect on April 1, 2024. In an effort to offer immediate assistance to Costa Mesa residents facing no-fault just cause eviction, the City’s Tenant Protection Ordinance would go into effect 30 days after Council approval, unless the City Council adopts an urgency ordinance, which would then take effect immediately.
2. In addition to the State law provision requiring owners to provide a notice to tenants of their intent to issue a no-fault just cause eviction which contains the information required by law, the Ordinance would require owners to notify the City within three (3) business days after giving notice to their tenant. Failure to properly notify would render a notice to vacate void. A copy of the draft Notice is attached to this report for review.
3. AB-1482 and SB-567 require owners to pay tenants who have been issued a no-fault just cause eviction relocation assistance equal to one month of their current rent or waive the tenant’s final month of rent. The Ordinance would require owners to pay tenants being issued a no-fault just cause eviction relocation benefits equal to two (2) months of Fair Market Rent (FMR) as determined annually by the U.S. Department of Housing and Urban Development (HUD) or waive the tenant’s final two months of rent and, if FMR is higher than the current rent, make a payment to the tenant to cover the difference.

The following table represents the relocation assistance rates proposed in the Ordinance (i.e., two months of HUD Fair Market Rent):

Zip Code	Studio	One-Bedroom	Two-Bedroom	Three-Bedroom
92626	\$4,960	\$5,280	\$6,280	\$8,500
92627	\$4,240	\$4,520	\$5,360	\$7,260

Procedural Overview and Staffing/Funding Needs

As stated previously, the Ordinance, if approved, will require property owners to notify the City within three (3) business days upon issuing a no-fault just cause eviction. As currently envisioned, these notices would be reviewed by a Community Outreach Worker whose role will be to act as 1) an objective third-party liaison between owners and tenants to ensure compliance with the noticing requirements of AB-

1482 and SB-567, and case manager to ensure each household facing eviction is connected with available resources to achieve a positive outcome. Based on available data, it is estimated the City could receive as many as 170 no-fault eviction notices over the next 12 months. In order to prioritize the timely review and response to no fault eviction notices, staff dedicated to the implementation and enforcement of the proposed Ordinance are needed. Staff envisions that, initially, one Community Outreach Worker would be hired to fulfill this function. However, staff has requested the City Council authorize adding a second Community Outreach Worker depending on caseload and at the discretion of the City Manager. The fully burdened cost to hire two (2) Community Outreach Workers to accommodate the estimated caseload is \$260,000 per year (\$130,000 each).

Upon receiving a notice that is *out of compliance* with State law, the Outreach Worker will work with the property owner to address the lack of compliance or otherwise take appropriate actions to comply with the requirements of SB-567. In cases where the Outreach Worker is unable to make a determination themselves, the notice will be forwarded to a dedicated staff member in the Development Services Department for review and final determination. Cases requiring field investigations to determine compliance with State law will be forwarded to the Code Enforcement Division for additional follow-up, as needed. As with all investigations of potential violations of the Municipal Code, Code Enforcement staff will work with the City Prosecutor's office when needed. Regarding staffing, in order to prioritize the timely review and response to no fault eviction notices, Development Services staff dedicated to the implementation and enforcement of the proposed Ordinance are needed. Staff envisions that, initially, a Senior Planner would be hired to fulfill this function. However, staff has requested the City Council authorize adding a second position in Code Enforcement at the discretion of the City Manager and depending on demand for more complex compliance services. The fully encumbered cost to hire a Senior Planner II is \$187,000 and the fully encumbered cost to hire a Code Enforcement Officer II is \$152,000.

Upon determining a notice is *in compliance* with State law, the Outreach Worker will work with the household to provide housing navigation and eligibility pre-screening for access to additional financial assistance from one of the City's authorized rental assistance providers. Staff is requesting an appropriation of \$300,000 in uncommitted American Rescue Plan Assistance emergency funds to ensure our providers have the capacity to provide rental assistance to very low-income Costa Mesa households facing evictions. Staff is requesting that the City Council authorize the City Manager, City Attorney and City Clerk to approve and execute new agreements and/or amendments to agreements as needed to increase the not-to-exceed amounts for Families Forward and SPIN who provide rental assistance to Costa Mesa families and individuals at risk of homelessness.

As needed, and only in cases when voluntary compliance with State or local law is unable to be achieved, the Outreach Worker, in coordination with the Code Enforcement Division, will refer cases to the City Attorney's Office for review and potential court filing pertaining to violations of the eviction protection provisions of the Costa Mesa Municipal Code. Expenditures for these legal services will be based on billable hours; as such, no additional staffing is required. The hourly rate for the Law Offices of Jones Mayer is \$252 per hour. With a \$100,000 appropriation, almost 400 hours of service could be provided.

### Community Outreach and Education

Upon approval of the Ordinance, City staff will implement a Community Outreach and Education Plan (Plan) to inform both owners and tenants of their rights regarding evictions as well as the resources available to them. The Plan will include:

- Bilingual public education regarding the rights and responsibilities of owners and tenants via the City's website, social media, printed flyers, workshops, etc.
- Targeted outreach to owners and tenants of multifamily housing projects
- Continued education regarding available rental assistance and legal aid resources
- Community partner outreach to schools, stakeholders, apartment associations, nonprofits, service providers, etc.

### ALTERNATIVES:

1. The City Council can elect to adopt an Emergency Ordinance to help mitigate the number of future no fault just cause evictions as soon as possible to avoid further displacement of families and children, and potential homelessness during the next two months of November and December. This is being presented as an option given the length of time it would take for the Ordinance to come into effect which is 30 days after the second reading on December 5, 2023, in other words January 4, 2023. This would be particularly difficult for the families but also for staff to manage going into the holiday season. A draft Emergency Ordinance has been attached to this item to allow for immediate passage if the Council deems preferable.
2. The City Council can elect to reduce the amount of Relocation Assistance required to be paid by owners issuing a no-fault just cause eviction from two (2) months of FMR to one (1) month of FMR.
3. The City Council can elect to forgo adopting a Tenant Protection Ordinance, which would cause evictions in Costa Mesa to only follow the provisions outlined in AB-1482 and (beginning April 1, 2024) SB-567. Enforcement of eviction laws would continue to rely on owners and/or evicted tenants filing civil litigation cases ultimately decided by the court system.

### FISCAL REVIEW:

There is no fiscal impact to the adoption of the proposed Tenant Protection Ordinance. The annual impact for the requested full-time positions is estimated at \$600,000, however the cost for the remainder of the current fiscal year is \$300,000. The Law Offices of Jones Mayer fiscal impact is estimated at \$250,000. City staff is requesting to commit the available ARPA funds for both the positions and the contract increase. At this time, there are \$3.5 million of uncommitted ARPA funds available for this service to our community.

### LEGAL REVIEW:

The City Attorney's office has reviewed this report and approved it as to form.

**CITY COUNCIL GOALS AND PRIORITIES:**

This item supports the following City Council Goal:

- Diversify, Stabilize, and Increase Housing to Reflect Community Needs

**CONCLUSION:**

1. Introduce and give first reading, waiving further reading, to Ordinance No. 2023-XX Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses), Article 24 (Just Cause Residential Tenant Protections) and/or adopt Ordinance No. 2023-XX, an Urgency Ordinance Amending Title 9 (Licenses and Business Regulations) of the Costa Mesa Municipal Code by Adding Chapter II (Regulation of Certain Businesses), Article 24 (Just Cause Residential Tenant Protections).
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