



DISCUSSION

City of San Bernardino Request for Council Action

Date: September 6, 2023

To: Honorable Mayor and City Council Members

From: Charles E. McNeely, Interim City Manager;
By: Mary Lanier, Interim Agency Director of Community,
Housing, and Economic Development

Department: Community, Housing, & Economic Development (CED)

Subject: **Regular Ordinance Amending, or Repealing, Crime
Free Housing Ordinance No. MC-1351**

Recommendation:

It is recommended that the Mayor and City Council of the City of San Bernardino, California

1. Introduce, read by title only, and waive further reading of Ordinance No. MC-1619 – An Ordinance of the Mayor and City Council of the City of San Bernardino, California, amending Chapter 15.27 of Title 15 of the San Bernardino Municipal Code regarding rental housing program maintenance standards;
or
2. Introduce, read by title only, and waive further reading of Ordinance No. MC-1620 -
- An Ordinance of the Mayor and City Council of the City of San Bernardino, California, repealing Chapter 15.27 of Title 15 of the San Bernardino Municipal Code (Crime-Free Rental Housing Program).

Executive Summary

At the April 5, 2023, Mayor and City Council Meeting, the City Council requested staff bring back for consideration the repeal of San Bernardino Municipal Code (SBMC) Section 1351 Crime Free Multi-Housing Ordinance. Subsequent to this request, the City received a lawsuit challenging the Crime-Free Multi-Housing Ordinance. The City entered into a stipulated judgement to revise the Ordinance. This report provides two options for City Council consideration 1) make modifications or 2) to repeal the Ordinance.

Background

The City presently has a Crime-Free Rental Housing Program that exists at Chapter 15.27 of Title 15 of the San Bernardino Municipal Code. The Ordinance applies to multi-family

rental properties with four or greater rental units on the same parcel. Per the terms of a stipulated judgment with Promise Gracia et al, the City has agreed to revise the Ordinance at a minimum to accomplish several things.

Discussion

The City's Crime Free Multi-Housing Ordinance has been a topic of discussion and concern with the community and City Council. Concerns were also raised during the Housing Element 2021-2029 preparation and review process, resulting in a lawsuit filed. To address the concerns raised and as agreed upon in the stipulated judgment, City staff have reviewed the program parameters with the legal team and have revised the Ordinance. The following outlines what the City agreed in the stipulated judgment to:

- Remove the words “crime-free” and “crime reduction” and all variations of those words and phrases from the Ordinance;
- Remove the implementation and enforcement of mandatory use, or recommended use, of a crime-free lease addendum;
- Remove the requirement of providing of 24-hour contact information to the City;
- Remove the voluntary certification process which included mandating the use of a crime-free lease addendum and mandated universal background checks;
- Remove various requirements for inspection fees and other fees;
- Remove the section regarding complaint-based inspections;
- Remove the section regarding public nuisances;
- Remove the section regarding enforcement alternatives;
- Remove the section regarding penalties;
- Require that any educational course and inspection materials remove the words crime-free and crime reduction, and remove any pejorative or derogatory descriptions of individuals with criminal histories;
- Require that any course and inspection materials shall not instruct property owners and managers to rely upon or use any criminal history information in housing admissions and housing termination of housing decisions that is prohibited by fair housing state and federal laws and regulations, including guidance from applicable state and federal enforcement agencies, which may be amended from time to time;
- Require that City sworn law enforcement shall not be involved in conducting the rental housing course or in conducting the annual exterior inspections or re-inspections; and
- Require that City code enforcement officers be involved in conducting the educational course and the annual exterior inspections and re-inspections only as a lawful exercise of their duties, pursuant to applicable legal authority including but not limited to enforcement responsibilities under California Civil Code section 1941 et seq. and Health and Safety Code sections 17920.3 and 17975 et seq.

The revised Ordinance retains the requirement for an eight-hour mandatory educational class and annual exterior inspections, with administrative citation remedies available for violations of the Ordinance.

Before the City agreed to make the above-described revisions, the Police Department and Code Enforcement Division were consulted, and they were agreeable to the terms. The revised Ordinance is included as Attachment 1.

If the Mayor and City Council instead desire to fully repeal the Crime-Free Rental Housing Program Ordinance, which effectively would eliminate the mandatory educational class and annual exterior inspections, then an alternative Ordinance (Attachment 2) has also been prepared.

Per the terms of the stipulated judgment, the City must accomplish the revision, or repeal, of the Crime-Free Rental Housing Program by October 4, 2023.

2021-2025 Strategic Targets and Goals

The proposed action of revising the Crime-Free Rental Housing Program aligns with Key Strategic Target No. 2 – Focused, Aligned Leadership and Unified Community. The Crime-Free Rental Housing Program revisions develop and implement a community engagement plan that respects the state and federal fair housing rights of City residents. The proposed action of revising the Crime-Free Rental Housing Program also aligns with Strategic Target No. 3 – Improved Quality of Life. Proper maintenance of multi-family residential rental housing facilities can be encouraged by educating property owners, operators, and managers as to the risks of substandard maintenance, unsafe conditions, and nuisance activity. Such education and proper maintenance make the City more clean and attractive. As a result, it can incentivize more people, especially those who work in the City, to choose to live in the City.

Fiscal Impact

There is no fiscal impact to the City.

Conclusion

It is recommended that the Mayor and City Council of the City of San Bernardino, California,

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Attachments

Attachment 1: Proposed Ordinance No. MC-1619 (Revise)

Attachment 2: Proposed Ordinance No. MC-1620 (Repeal)

Ward:

All Wards

Synopsis of Previous Council Actions:

April 4, 2023 The City Council approved the consideration at a future meeting of the repeal of Municipal Code 1351 Crime Free Multi-Housing Ordinance (All Wards)