



Meeting Date: 11/14/06

ACTION		TYPE OF ITEM	
<input type="checkbox"/> Approved Recommendation	<input checked="" type="checkbox"/> Ord. No(s). _____	<input checked="" type="checkbox"/> Info/Consent	<input type="checkbox"/> Report
<input checked="" type="checkbox"/> Res. No(s). _____	<input type="checkbox"/> Other _____	<input type="checkbox"/> Public Hearing (Info/consent)	<input type="checkbox"/> Other _____

Prepared By: James F. Rupp, Jr., Assistant City Attorney Agenda Item No. I-1

Reviewed By: City Manager [Signature] City Attorney [Signature] Finance [Signature] Code Compliance [Signature]

DATE: November 2, 2006

TO: City Council

FROM: James F. Rupp, Jr., Assistant City Attorney [Signature]
Office of the City Attorney

SUBJECT: **Adoption of an Uncodified Ordinance Creating an Appeals Process for a Property Owner to Contest a Finding that a Rental Unit is Unsafe and Making Findings in Accordance with Health and Safety Code Sections 17975 et seq.**

RECOMMENDATION

That City Council: (1) approve the first reading by title only and subsequent adoption of an uncodified ordinance creating an appeals process pursuant to the provisions of Health and Safety Code sections 17975 et seq., and (2) adopt a resolution setting forth an amount sufficient for utility service deposits.

DISCUSSION

Health and Safety Code sections 17975 et seq. make a landlord liable to a residential tenant when the condition of a rental unit is such that the building official issues an order to vacate the unit because the immediate health and safety of the tenant is endangered. If the building official determines the landlord was responsible for the condition that caused the order to be issued, then the landlord is obligated to make a relocation payment to the tenant. The payment consist of (a) two months of fair market rents in accordance with HUD guidelines, and (b) an amount, determined by the city, sufficient for utility service deposits.

The legislation also requires the city to provide an administrative appeal process so that the landlord may contest the order to make relocation payments.

The attached ordinance implements the legislation by (a) setting forth an administrative appeal process, and (b) requires the City Council to determine, from time to time, an amount sufficient for utility service deposits.

With regard to the determination of an amount sufficient for utility service deposits, staff contacted the utility companies. Both Southern California Edison and Southern California Gas Company allow a

Adoption of an Uncodified Ordinance Creating an Appeals Process for a Property Owner to Contest a Finding that a Rental Unit is Unsafe

November 2, 2006

Page 2

waiver of a deposit in certain situations. However, if a person does not qualify for waiver of a deposit, the following are representative of deposits that would be charged for service within Oxnard:

Southern California Edison - \$160 for a single-family home and \$85 for an apartment unit.

Southern California Gas Company - \$80 for a single-family home and \$40 for an apartment unit.

In addition to a deposit for gas and electrical utilities, there is a \$61 deposit for sewer, water and refuse service with the City.

The attached resolution sets forth separate findings for utility deposits depending on whether a tenant is displaced from a single-family home or an apartment unit.

FINANCIAL IMPACT

The financial impacts are unknown at this time.

Attachment No.1 - Ordinance

Attachment No. 2 - Resolution

JFR

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UNCODIFIED ORDINANCE OF THE CITY OF OXNARD

ORDINANCE NO. __

AN UNCODIFIED ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
OXNARD IMPLEMENTING THE PROVISIONS OF HEALTH AND SAFETY
CODE SECTIONS 17975 ET SEQ.

WHEREAS, Health and Safety Code section 17975 makes a property owner liable for relocation payments to a residential tenant of such property upon certain findings by the building official or code compliance officer;

WHEREAS, the property owner must pay the residential tenant a relocation benefit, as set forth in Health and Safety Code section 17975.2, when: (1) the residential tenant is ordered by the building official or code compliance officer to vacate the residence as a result of a violation so extensive and of such a nature that the immediate health and safety of the resident is endangered, and (2) the building official or code compliance officer determines the tenant is entitled to benefits pursuant to Health and Safety Code sections 17975 et seq.;

WHEREAS, Health and Safety Code section 17975.2 requires the city to determine a dollar amount sufficient for the tenant to make utility service deposits; and

WHEREAS, Health and Safety Code section 17975.4 requires an administrative appeal process be afforded the property owner.

Now, therefore, the City Council of the City of Oxnard does ordain as follows:

Part 1. Within thirty days of city staff's mailing to the owner and posting on the premises an order to vacate the premises in accordance with Health and Safety Code section 17975.1(a), the property owner may file an appeal of such order with the City Clerk on the form posted and mailed with the order.

Part 2. The City Manager shall appoint a hearing officer to conduct the appeal hearing.

Part 3. (a) Within a reasonable time after being given notice of the appeal, the hearing officer shall notify the property owner by mail of the time and place for the hearing of the appeal. (b) The hearing officer shall conduct an appeal at the time and place designated in the notice unless the property owner and hearing officer agree to another date. (c) At the hearing, the hearing officer shall consider the reasons set forth in the appeal and all material evidence that a reasonable person would normally rely upon to make a significant decision. (d) The hearing officer shall make a written decision setting forth the reasons for the decision. (e) The hearing officer shall cause a copy of such

written decision to be mailed to the property owner within thirty days of the close of the hearing.

Part 4. The City Council shall adopt a resolution setting forth the dollar amount reasonably necessary for a tenant to make utility service deposits in accordance with Health and Safety Code section 17975.2.

Part 5. Within fifteen days after passage, the City Clerk shall cause this ordinance to be published one time in a newspaper of general circulation with the city. Ordinance No. ___ was first read on _____, 20__ and finally adopted on _____, 20__ to become effective thirty days thereafter.

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

Daniel Martinez, City Clerk

APPROVED AS TO FORM:


Gary L. Gillig, City Attorney

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ATTACHMENT NO. 1
PAGE 2 OF 2

CITY COUNCIL OF THE CITY OF OXNARD

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
OXNARD SETTING FORTH FINDINGS AS TO
THE AMOUNT SUFFICIENT FOR UTILITY SERVICE DEPOSITS

WHEREAS, Health and Safety Code sections 17975 et seq. require a landlord to make a certain payment to a tenant if a tenant is displaced from a unit because the immediate health and safety of the tenant is endangered; and

WHEREAS, a portion of the payment is the amount, as determined by the City Council, sufficient for utility service deposits; and

WHEREAS, a report has been presented to the City Council as to the amounts sufficient for utility service deposits in Oxnard; and

WHEREAS, the City Council has considered such report and all other evidence brought before it in making such determination.

NOW, THEREFORE, the City Council of the City of Oxnard resolves that the following amounts are sufficient for utility deposits within the City of Oxnard:

If a tenant is displaced from a single-family home, the amount is \$301.

If a tenant is displaced from an apartment unit, the amount is \$186.

PASSED and ADOPTED this ____ day of _____, 2006, by the following vote:

AYES:

NOES:

ABSENT:

Dr. Thomas E. Holden, Mayor

ATTEST:

APPROVED AS TO FORM:

Daniel Martinez, City Clerk

James F. Rupp, Jr.

Gary L. Gillig, City Attorney