

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: DAVID GOUIN, DIRECTOR
HOUSING & COMMUNITY SERVICES

SUBJECT: ORDINANCE ADOPTION – ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA ROSA ADDING CHAPTER 6 90 TO THE SANTA ROSA MUNICIPAL CODE CONCERNING, AS TO CERTAIN RESIDENTIAL RENTAL UNITS IN THE CITY, (A) RENT STABILIZATION, LIMITATIONS ON THE TERMINATION OF TENANCIES AND THE PAYMENT OF RELOCATION ASSISTANCE AND REPEALING IN THEIR ENTIRETY ORDINANCE NUMBERS 4067, 4069 AND 4070

AGENDA ACTION: ORDINANCE

RECOMMENDATION

It is recommended by the Department of Housing and Community Services that the Council 1) adopt the Ordinance with the revisions noted in the attached redlined version of the Ordinance; and, 2) direct staff to return on September 13 with a revised Rent Stabilization Capital Improvement Plan Policy to address demolition and new construction.

EXECUTIVE SUMMARY

On August 16, 2016, the City Council introduced the City of Santa Rosa Rent Stabilization and Other Tenant Protections Ordinance (“the Ordinance”). If the second reading of the Ordinance occurs on August 30, it will be effective on the 31st day thereafter, September 30, 2016. Council also adopted a resolution establishing a Rent Stabilization Capital Improvement Plan (RS-CIP) Policy, which would not be operative until the effective date of the Ordinance.

BACKGROUND

Summary of revised Text in The Ordinance

As part of its action, Council, in addition to approving the text of the Ordinance that accompanied the agenda report on August 16, revised the text somewhat and those

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revisions, along with some minor clerical corrections, are set forth in the attached redlined version of the Ordinance. The most salient of those revisions are discussed below in order of appearance.

1. Housing Choice Voucher Program Rental Units are not exempt from the Ordinance. Section 6-90.020 B (1). Accordingly, landlords in the Section 8 Housing Choice Voucher Program who own units subject to the Ordinance will need to comply with the Ordinance, including paying relocation benefits in certain situations such as owner move in. Staff remains concerned that by including these units within the protection of the Ordinance that property owners currently in the program may withdraw. Although such tenants would receive relocation benefits, they would likely be required to pay substantially more in rent than they are currently paying. Staff will monitor this situation.
2. Landlords must provide materials concerning the Ordinance in writing, rather than referring tenants to the City's website. Section 6-90.030 A.
3. Where landlords unbundle charges and fees, they must provide documentation to the Program Administrator showing the amount and that such charges have not been included in the calculation of the annual allowable adjustment. Section 6-90.045 B; 6-90.040 A.
4. Agreements between landlords and tenants where the rent increase exceeds 3% are not permitted except with the oversight of the Program Administrator. See deletions in Section 6-90.040, Section 6-90.070, and Section 6-90.130.
5. Where a landlord has permitted a tenant to have a pet, the tenant retains that right even if the landlord changes the policy. Section 6-90.045 C.
6. Tenants may participate in the decision making process concerning requests for rent increases above 3%. Section 6-90.065, 6-90.080 A, D, E, 6-90.100 A, 6-90.105 F, 6-90.110 and 6-90.120.
7. A single tenant may request a rent adjustment based on a reduction of housing services, the 30 day time limit for tenants to request rent adjustments has been deleted and a tenant may request more than one rent adjustment in a twelve month period so long as it is not based on the same or substantially the same reasons. Section 6-90.075.
8. Eliminated as factors for the Program Administrator and the Hearing Officer to consider when evaluating a rent increase above 3% not related to a capital improvement plan are capital improvements, the physical condition of the property and the quality and quantity of maintenance and repairs; "historic

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buildings” has been clarified to mean those special historical and architectural buildings as designated under the City Code. Section 6-90.080.

9. The definition of habitual late payment of rent has been clarified. Section 6-90.125 B.
10. As to an owner move-in, a resident manager is permitted only if the building or complex has four or more rental units; an owner move in is not permitted if the landlord or one of the enumerated persons in the owner move in section already occupies one of the units. Section 6-90.125 G (4) and G 2.
11. Landlords must pay a relocation fee to a tenant at the end of a fixed term lease of greater than nine months. Section 6-90.130 A. Note however that if a tenant on a fixed term lease “holds over”, i.e., remains in the unit without the landlord’s permission and the landlord does not accept some or all of the next month’s rent, that is a violation of the obligation of the tenancy for which the landlord would not be responsible for relocation fees if the landlord evicts the tenant. Section 6-90.125 C.
12. Regardless of the length of the tenancy, the relocation fee shall be \$1500 plus the equivalent of three months’ rent based on the monthly rent of a comparable unit in Santa Rosa as determined by the Program Administrator; the Program Administrator will use the number of bedrooms as the comparability factor. Section 6-90.130 A.
13. For the first violation of the Ordinance, violators will be referred to an educational program; if a violation concerns more than one unit, a separate citation may be issued for each affected unit. Section 6-90.160 A.

In addition to these items, Council had questions about the applicability of the Ordinance or the Capital Improvement Plan Policy if a building with four or more rental units is completely demolished and then rebuilt for residential rental purposes. Staff was unable to provide a definitive answer at the meeting but now has had a chance to discuss the issue in more detail.

Under the Ordinance if a building with rental units subject to the Ordinance is demolished such that the use of the property will not be used in the future for residential rental purposes, the landlord may terminate tenancies for that purpose but the tenants are entitled to relocation benefits. See Section 6-90.125 H; Section 6-90.130 A. Moreover, it seems clear that if a building with rental units is demolished and a new residential rental building constructed, the rent control provisions of the Ordinance

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would not apply to it as it would be a multi-family unit building for which a certificate of occupancy was issued after February 1995 and under state law (the Costa Hawkins Rental Act), such units are generally exempt from local rent control. Because the other tenant protection provisions of the Ordinance, such as prohibiting no cause evictions and the payment of relocation benefits for certain tenancy terminations, do not apply to buildings for which a certificate of occupancy was issued after February 1995, under the Ordinance, as introduced, tenants who occupied the building post new construction would not have the protection of the Ordinance.

Akin to law that prevents a local government from prohibiting a property owner from withdrawing a rental property from the rental market, or demolishing a rental property, and going out of the rental business, a local government is likewise prevented from prohibiting a property owner from demolishing a rental property and constructing thereon new residential units.

Accordingly, if it were Council direction to revise the RS-CIP Policy, staff would return at the September 13, 2016 City Council meeting with said revisions clarifying that tenants displaced due to the demolition would receive relocation benefits and have the right of first refusal for the newly constructed units. And, because the new units would be exempt under the Ordinance, the property owner would determine the initial rent and any subsequent rent increases.

Summary of Revised Text in The Rent Stabilization Capital Improvement Plan (RS-CIP) Policy

As mentioned, Council also adopted a resolution establishing a Rent Stabilization Capital Improvement Plan (RS-CIP) Policy, modifying it somewhat from the Policy as presented with the staff report. A redlined version of the Policy is attached showing the changes, the most salient of which are as follows:

1. For purposes of including an assumed interest rate in the calculation of the cost of improvements, that interest rate will be one-half of an assumed interest rate of the Wall Street Journal's prime rate (Western Edition) plus one percent. Section 5 of the Policy.
2. The cost of the improvement will be amortized over 20, not 15, years. Section 5 of the Policy.

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3. The dollar amount of the rent increase as calculated under the Policy will be deducted from the rent then in effect at the conclusion of the 20 year amortization period. Section 5 of the Policy.
4. The Program Administrator will provide the tenant with the opportunity to respond to the landlord's request for a Capital Improvement Plan. Section 9 of the Policy.
5. When the tenant has informed the landlord the tenant does not intend to continue to rent the unit because of the rent increase due to the improvements, the tenant may remain in the unit (if safe to do so) until the work is completed, after which the landlord may terminate the tenancy and pay relocation benefits. Section 11 A of the Policy.

Under the Policy, the Program Administrator will determine whether it safe for the tenant to remain in the unit while the work is being done. Section 11 B of the Policy. As to a temporary relocation, if there is a comparable unit in the building, the landlord must provide that unit to the tenant at the same rent as the tenant was paying and the landlord must offer to the tenant, on a first right of refusal basis, the unit the tenant had been living in once the work has been completed, albeit at the increased rent. Section 11 B-D of the Policy.

If there is no comparable unit in the building, there is a presumption that if the work can be accomplished within six months, the displacement will be temporary and the tenant will be compensated for the documented cost of relocating temporarily and the landlord will be responsible for any rent differential between what the tenant was paying and what the tenant will need to pay during the temporary displacement. In addition, the tenant will have the right of first refusal to return to the tenant's unit or a comparable unit satisfactory to the tenant within the building. Section 11 B, C and E of the Policy.

If the tenant chooses not to pay the rent increase following construction or otherwise a permanent relocation is necessary, the landlord must pay the relocation benefits as provided in the Ordinance. Section 11 F of the Policy.

PRIOR CITY COUNCIL REVIEW

On May 3, 2016, following several meetings of a Council committee that considered a number of tenant protection options, the City Council directed City staff to present to the Council legislation that would limit annual rent increases and limit termination of tenancies for "just cause."

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On May 17, 2016, in light of numerous concerns about rising rents and other adverse impacts resulting from a substantial decrease of affordable rental housing within the City, the City Council determined that it was in the interest to preserve immediately the public health, safety and general welfare to adopt interim Ordinance No. 4063, imposing a 45 day moratorium on rent increases within the City of Santa Rosa, and directed staff to draft a comprehensive rent stabilization program.

On July 7, 2016, the City Council adopted Ordinance No. 4067, an urgency ordinance enacting a further 90 day moratorium on certain residential rent increases within the City of Santa Rosa, that superseded Ordinance No. 4063, and on July 19, 2016, the City Council adopted Ordinance No. 4069, an urgency ordinance correcting certain clerical errors in Ordinance No. 4067.

On July 19, 2016, the City Council found and determined that the lack of a just cause eviction requirement put some tenants at risk of evictions by landlords seeking to increase rents in the face of the recently adopted moratorium on rent increases and Council determined that it was in the interest to preserve the public health, safety and general welfare to introduce an ordinance to prohibit landlords from terminating the tenancies of certain tenants without just cause to do so. This Ordinance was adopted by the Council on the August 16; it will not take effect for 30 days thereafter.

On August 16, 2016, the City Council, in addition to approving the text of the Ordinance that accompanied the agenda report on the first reading, revised the text somewhat and those revisions, along with some minor clerical corrections, are set forth in the attached redlined version of the Ordinance.

ANALYSIS

The RS-CIP Policy could be revised to include demolition and construction of new residential rental housing. Tenants displaced due to the demolition would receive relocation benefits and have the right of first refusal for the newly constructed units but, because the units would be exempt under the Ordinance, the property owner not only would determine the initial rent but also any subsequent rent increases.

By directing staff to return a revised RS-CIP Policy on September 13, 2016, Council could adopt the Ordinance as introduced on August 16 and that Ordinance, along with the revised RS-CIP Policy, would take effect September 30, 2016.

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As part of meeting initial year program costs, prior to the Ordinance's effective date, staff will be recommending the City Council appropriate funding to cover 100% of the estimated cost of administering the ordinance from its effective date until June 30 2017. Going forward, the program budget and the amount of the program fee will be set annually by City Council resolution during the budget process.

ENVIRONMENTAL IMPACT

Adoption of the Ordinance is not a project under the California Environmental Quality Act, title 14, Section 15078 (b) of the California Code of Regulations (CEQA Guidelines). If it were a project, no further CEQA review is required because there is no possibility that adoption of the Ordinance will have a significant effect on the environment. CEQA Guidelines, section 15061 (b)(3).

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

N/A

NOTIFICATION

N/A

ATTACHMENTS

- Attachment 1. Redline Ordinance
- Attachment 2. Redline Policy Concerning Capital Improvement Plans
- Ordinance

CONTACT

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