

CITY OF SANTA ROSA  
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

FROM: DAVID GOUIN, DIRECTOR HOUSING AND COMMUNITY SERVICES

SUBJECT: CONSIDERATION FOR ADOPTION OF AN ORDINANCE OF THE CITY OF SANTA ROSA ADDING CHAPTER 6-90 TO THE SANTA ROSA MUNICIPAL CODE REGARDING: 1) RESIDENTIAL RENT STABILIZATION AND OTHER TENANT PROTECTIONS FOR CERTAIN RENTAL UNITS WITHIN THE CITY OF SANTA ROSA; 2) A RESOLUTION ADOPTING A POLICY CONCERNING CAPITAL IMPROVEMENT PLANS FOR CERTAIN RENTAL UNITS WITHIN THE CITY OF SANTA ROSA; AND, 3) REVIEW OF PRELIMINARY COST ESTIMATES FOR PROGRAM ADMINISTRATION THROUGH JUNE 30, 2017.

AGENDA ACTION: ORDINANCE

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RECOMMENDATION

It is recommended by the Housing and Community Services Department that the Council, by ordinance, 1) add Chapter 6-90 to the Santa Rosa Municipal Code regarding residential rent stabilization and other tenant protections for certain rental units within the City of Santa Rosa, 2) adopt a resolution concerning a capital improvement plans policy for certain rental units within the City of Santa Rosa, and 3) review preliminary cost estimates to administer the rent stabilization program through June 30, 2017.

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EXECUTIVE SUMMARY

Given the increased housing cost burden faced by many City of Santa Rosa residents, in which rental increases threaten the public health, safety, and welfare of the City's residents, the Council has initiated a program to implement Rent Stabilization and Just Cause for Eviction policies in Santa Rosa. This direction followed an extensive review of rent stabilization programs in California, including options for the implementation of Mediation/Arbitration, Just Cause for Eviction, and Rent Stabilization in Santa Rosa.

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On May 3, 2016, the Council provided direction for a rent stabilization/just cause for eviction ordinance and directed staff to proceed with the ordinance. Council also directed the preparation of an ordinance to address an interim moratorium on rent increases exceeding 3%, to prevent landlords from increasing rent over this percentage while providing a fair and reasonable rate of return while the Rent Stabilization Ordinance was drafted.

Per the direction of the Council, staff has prepared a Rent Stabilization/Just Cause for Eviction Ordinance for Council consideration.

This work effort is included within Council Goal #1: Create a Strong, Sustainable Economic Base; Strategic Objective #2: Evaluate Housing Initiatives.

### BACKGROUND

In Santa Rosa, approximately 47% of residents are renters and according to the U.S. Census Bureau, 2009-2013 American Community Survey, 9% of families in Santa Rosa live below the poverty level and the number of persons living below the poverty level in Santa Rosa has increased since 2000. According to C-STAR (2015 Q-2), the monthly rent and occupancy rates of market rate units of apartment buildings of fifty or more units in Santa Rosa have increased 9% in the past year and more than 20% in the past 2.5 years. Furthermore, according to the U.S. Census Bureau, 2009-2013 American Community Survey, 47.1% of Santa Rosa renter households are “overpaying households”, meaning a household which pays 30% or more of its household income on housing costs.

The vacancy rate for residential rental units in the City of Santa Rosa is approximately one percent and therefore there is not enough supply of vacant units to offer tenants a meaningful choice in the residential rental market. This extremely low vacancy rate has contributed to a growing “affordability gap” between household incomes and rents as demonstrated by the increase in “overpaying renter households.” There has been a growing population of persons in the City without homes and the lack of affordable housing contributes to the homeless population.

Given this increased housing cost burden faced by many City of Santa Rosa residents, excessive rental increases threaten the public health, safety, and welfare of the City’s residents, including seniors, those on fixed incomes, those with very low, low, or moderate incomes, and those with other special needs, to the extent that such persons may be forced to choose between paying rent and providing food, clothing, and medical care for themselves and their families.

Community members have reported (a) to the City Council at City Council meetings, (b) to the City Council in written communications, (c) and to and through the press that in the City of Santa Rosa there have been substantial increases in rent and there have been a substantial number of terminations of tenancies without cause.

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In response, the City Council directed City staff to analyze various tenant protection policy options, including legislation to establish rent control/stabilization and/or just cause eviction policies.

Community members also reported that the City Council's discussion and direction to study rent stabilization and just cause eviction policy options have created market uncertainty and concern among some property owners that if they do not immediately increase rents and/or take action to terminate tenancies without just cause, they could face a loss of income and/or loss of property value.

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."

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.

On the August 2, 2016, the City Council voted to continue the Just Cause Eviction Ordinance second reading to the August 16, 2016 Council session. If the comprehensive rent stabilization and other tenant protection measures is approved on August 16, 2016 the second reading of the Just Cause Eviction Ordinance may be unnecessary, as this comprehensive measure includes a Just Cause Eviction element. If the comprehensive rent stabilization and other tenant protection measures is not approved on August 16, 2016, the Just Cause Eviction Ordinance measure would conduct a second reading and potential adoption; it would not take effect for 30 days thereafter.

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Concerning this agenda item, the City Clerk published and posted a notice of a public hearing for the City Council's regular meeting on August 16, 2016 for the purposes of considering this Ordinance and other tenant protection measures.

#### PRIOR CITY COUNCIL REVIEW

See Background

#### ANALYSIS

##### ***1) Rent Stabilization and Other Tenant Protection Ordinance***

As to certain rental units in the City, the proposed Ordinance "rolls back" rents to January 1, 2016, provides landlords with the right to increase rents by 3% annually (the "allowable annual adjustment") beginning January 1, 2017, creates a process for landlords to seek rent increases above the allowable annual adjustment, including a binding hearing process, allows for the termination of tenancies only for just or good cause and requires payment of relocation fees for so called "no fault" tenancy terminations. As to not only rent stabilization but also other tenant protections such as the grounds for terminating tenancies and relocation assistance, the Ordinance expressly exempts many rental units including single family residences, duplexes and triplexes where the property owner resides in one of the units as the owner's principal residence. Staff estimates, however, that about 11,000 of the 41,000 rental units in the City will be subject to the Ordinance as proposed.

Discussed below are the major elements of the proposed Ordinance:

#### Exempt Rental Units

The Ordinance expressly exempts many rental units including single family residences, duplexes and triplexes where the property owner resides in one of the units as the owner's principal residence. This exemption applies not only to the rent stabilization measures in the Ordinance, i.e., limiting rent increases as a matter of right to no more than 3% but also to the reasons for terminating tenancies and requiring landlords to provide relocation assistance to tenants whose tenancies are terminated for certain reasons. Accordingly, for those rental units that the Ordinance exempts, landlords will be able to terminate tenants' tenancies for "no cause" and will not be required to pay any relocation assistance to a tenant displaced, for example, due to an owner "move-in". Of the 41,000 rental units in the City, staff estimates 30,000 will be exempted. Although state law prohibits a city from imposing rent stabilization on the many of the rental units that this Ordinance exempts, such as single family residences and multi-family units built after February 1995, state law does not prohibit a city from limiting the grounds for terminating tenancies. Consequently, if the Council chooses to extend the other tenant protection measures to these exempt rental units, the draft ordinance could be easily revised and introduced on August 16 to accomplish that.

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Also exempt are rental units owned by any governmental agency, rental units for which a rental regulatory agreement is in place, and rental units regulated by federal or state law, such as the Section 8 Voucher program. (Under the Section 8 Voucher Program, a tenant with a voucher pays a portion of the rent and the federal government pays the property owner the remainder; such programs have their own regulations concerning rent increases, evictions and relocation assistance.) Rooms in single family residences, hotels, motels, tourist homes, educational dormitories, non-profit care homes, such as assisted living facilities are also exempted.

### Rent Increases

1. *“Roll back” of Rents.* The Ordinance “rolls back” rents to January 1, 2016 or, if no rent were in effect as of that date, the rent that first went (or will go) into effect after January 1, 2016.
2. *Allowable Annual Adjustment.* By right, landlords may increase rents by no more than 3% annually, beginning January 1, 2017, for those units that were rented as of January 1, 2016. For units rented after January 1, 2016, a landlord must wait 12 months before increasing rents by the allowable annual adjustment.
3. *Frequency of Rent Increases.* Landlords may not increase rents more than once every twelve months.
4. *Rent Increases Above the Allowable Annual Adjustment.* Landlords who want a rent increase above 3% must initiate a process in two different ways. One way is by filing a petition with the City’s “Program Administrator”. In determining the amount of a rent increase above the allowable annual adjustment, the Program Administrator may consider numerous factors including:
  - the frequency and amount of prior rental increases,
  - the landlord’s costs of operation
  - capital improvements that do not meet the requirements of a Capital Improvement Plan
  - any increases or decreases in housing services (since the last rent increase); and,
  - the landlord’s interest in earning a just and reasonable rate of return on the property.

If the Program Administrator and the landlord reach agreement as to the rent increase, the tenants will be so advised.

A second method is for the landlord to file a Capital Improvement Plan with the Program Administrator when the landlord intends to rehabilitate

substantially a rental unit and seeks to recover those costs by a rent increase. This will be discussed in more detail below.

Staff recognizes that during the Council's discussion concerning rent stabilization, there was a desire for the City's Housing Authority Commission to have a role in this process. However, due to the complexity and range of options regarding its potential duties as they relate to review of tenant and landlord petitions and overall program oversight, as well as determining any limitations between its role with rent stabilization and the Housing Authority, the Ordinance does not include the Commission. If after reviewing the Ordinance the Council determines that a Commission role is necessary, staff will explore further in what ways the Housing Authority Commission might be involved in rent stabilization issues and report to the City Council. Given Council's direction to bring this Ordinance forward at this time, staff believes having a Program Administrator provide the requisite level of review of rent increases above the annual allowable adjustment is the most expeditious and efficient method to implement Council's direction.

5. *Further Review of the Program Administrator's Decision Concerning a Rent Increase above the Allowable Annual Adjustment.* Concerning the first method, if the Program Administrator and the landlord do not reach agreement, the Program Administrator will determine the rent increase. If the landlord disagrees, the landlord may initiate a process to have a neutral hearing officer hear and issue a binding decision as to the rent increase, subject only to judicial review. At the table, as it were, at the hearing will be the landlord and the Program Administrator. The hearing officer will consider similar factors as did the Program Administrator in arriving at a decision. If the landlord fails to initiate this hearing process, then the Program Administrator's decision is binding on the landlord.
7. *Limitations on Revising what is Included in the Rent.* If a tenant pays as "part of the rent," and is not separately charged for, items such as utilities, parking, storage or pets, and a landlord decides to "unbundle" or increase such charges, the amount of such charges are to be included in calculating the allowable annual adjustment. If, however, there are charges for utilities that are paid directly to the landlord and are separately metered or pro-rated among the tenants using a cost allocation program, the tenant must pay increases to such charges and those charges will not be included in the calculation of the allowable annual adjustment. Moreover, if a tenant requests housing services such as a parking space, storage or a pet that the tenant did not have before, the charges for such services would likewise not be included in calculating the allowable annual adjustment.
8. *Notices of Review Procedures for Rent Increases.* The proposed Ordinance sets out in detail the form and content of the notice that the landlord must serve on the tenant when the landlord seeks to increase the rent above the

allowable annual adjustment. (This notice, however, does not need to be served when the rent increase above the allowable annual adjustment is a result of improvements made in connection with Capital Improvement Plan, discussed below.)

If the notice to the tenant does not comply with the Ordinance, a landlord may cure the violation by serving the tenant with a proper notice. If the housing provider fails to provide the proper notice and hasn't cured the violation (by re-serving a proper notice), the rent increase is void and the tenant may use that failure as evidence in a tenant's defense in an unlawful detainer action based on the tenant's failure to pay the illegal rent increase.

9. *The Effective Date of a Rent Increase above the Allowable Annual Adjustment.*

For rent increases of more than 3%, the rent increase will not go into effect any earlier than as approved by the Program Administrator. If the landlord does not agree with the Program Administrator's decision and initiates the hearing process, the rent increase above the allowable annual adjustment would not become effective until 60 days after the hearing officer's decision or, if that decision were challenged in court, when the judicial proceedings are concluded. If the landlord does not agree with the Program Administrator's but fails to initiate the hearing process, the rent increase is effective upon the expiration of the time to initiate the hearing process.

Other Adjustment of Rents

Under the Ordinance, tenants may request the Program Administrator to make adjustment to a tenant's rent. For example, such request could be based on the tenant's belief that the rent increase has been mistakenly or improperly calculated (and the landlord does not agree), on the tenant's belief that housing services have been materially reduced, that the landlord has violated the Ordinance thereby, in some instances, voiding the rent increase or that the rent increase had been based on the landlord's belief the unit was exempt from the Ordinance but the tenant disagrees.

The Program Administrator will evaluate the tenant's request, discuss it with the landlord and, if consensus on the dispute cannot be obtained, issue a decision. As with the Program Administrator's decision as to rent increases, if either the tenant or the landlord disagrees with the Program Administrator's decision, either may petition to have a hearing officer determine the matter. If a petition is not timely filed, the Program Administrator's decision is final and binding.

Limitations on Terminating Tenancies

During the various meetings at which rent control and other tenant protection measures have been discussed, the Council heard that an overarching concern voiced by tenants that needed to be addressed was the eviction of tenants solely to raise rents to market

rates. As to those rental units to which the Ordinance applies, the proposed Ordinance has provisions that significantly limit the grounds for terminating tenancies.

1. *“No cause” evictions.* A landlord may not terminate a tenancy for “no cause”; there must be good or just cause.
2. *For cause evictions.* A landlord may terminate “for cause”, for example a tenant’s failure to pay rent, breach of the lease, creating a nuisance, or failure to give reasonable access to the unit to the housing provider. In each of these situations, the landlord must provide adequate notice to the tenant of the grounds for terminating the tenancy and, except in situations where the activity involves violence or is physically threatening behavior, provide a reasonable opportunity for the tenant to cure. In the case of for cause evictions, the landlord is not required to provide relocation assistance (as will be discussed below) nor is there any limitation on the amount of the rent the landlord may charge a new tenant. In addition, property owners are not required to provide notice of these for cause terminations to the Program Administrator.
3. *No fault evictions.* Another form of “just cause” terminations may also be thought of as “no fault” (of the tenant) evictions. Under the Ordinance, a landlord may terminate a tenancy for an owner move in, demolition of a building or unit, substantial rehabilitation subject to an approved Capital Improvement Plan, withdrawal of the rental unit from the rental market, or compliance with a governmental order to vacate the building. All of the no fault evictions are subject to the landlord’s paying relocation assistance as set forth below except where a tenant must vacate the unit due to fire, flood, earthquake, natural disaster or other occurrence for which the landlord is not responsible.

Certain limitations apply to each of these no fault evictions. For example, in an owner move in eviction, the owner must be a “natural person” (as defined in the Ordinance) who has at least a 50% interest in the property, and the person must move in within 90 days and must remain in the unit at least one year. If these provisions are violated, the landlord must offer the rental unit to the previous tenant at the same rent as before and pay any reasonable costs the tenant incurred in relocating from and to the unit.

For terminations of tenancies for substantial rehabilitation, the landlord must submit a Capital Improvement Plan to the Program Administrator for review and approval before terminating any tenancies. (The Capital Improvement Plan Policy is discussed in more detail below.) The Capital Improvement Plan will allow the landlord to increase rents to recover costs to provide a fair return on investment. .

#### Relocation Assistance

If the landlord terminates a tenancy for no fault of the tenant, the landlord must pay relocation assistance. The proposed Ordinance requires that the landlord must pay one month’s rent then in effect for each year (or portion thereof) that the tenant has rented



the rental unit, up to two months' rent, plus \$1500 moving expense. For example, if a tenant occupied the unit for 18 months, the landlord would provide to the tenant the equivalent of two months' rent plus \$1500. If the tenant had resided in the unit for two or more years, the landlord's obligation would be capped at two months' rent plus \$1500.

The Ordinance requires that the landlord pay one-half of the relocation fee when the tenant notifies the landlord that the tenant intends to vacate on the date provided in the notice to vacate. The landlord would pay the remaining half upon certification that the tenant has vacated the unit on the vacation date. Of course there is a chance that the tenant will inform the landlord of a move out date, receive one-half of the applicable relocation fee but then remain in the unit beyond the agreed upon date. In that case, the housing provider will not be obligated to pay the remaining relocation fee and could seek to recover the relocation fee already paid through, for example, an unlawful detainer action or small claims action.

### Landlord's Obligations

The proposed Ordinance imposes a number of obligations on landlords. These include:

- Providing the following to existing and prospective tenants:
  - Notice that the rental unit is subject to the Ordinance
  - A copy of the Ordinance
  - A copy of any City policy that implement the Ordinance
  - A copy of any City informational brochures that explain the Ordinance
- Disclosing to potential purchasers in writing that the rental property is subject to the Ordinance
- Providing to the Program Administrator timely notices and other documents including but not limited to:
  - Notices of rent increases in excess of 3% thus initiating the review process
  - Petitions when the landlord disagrees with the decision of the Program Administrator
  - Notices to terminate a tenancy for "no fault" reasons
  - The name and relationship of the person moving into the unit when there is a termination of a tenancy due to an "owner move in", and proof that the owner is a "natural person"
  - Documentation that supports the property being removed permanently from the rental market
  - Capital Improvement Plans when the rent increase from the work exceeds 3% or results in the temporary or permanent relocation of the tenant due to the work
  - Documentation of relocation payments

### Violations of the Ordinance

The Ordinance does provide for a number of remedies for violations. For example, if a landlord fails to serve the required notice of a rent increase under the Ordinance, the tenant may refuse to pay the higher rent and use the landlord's failure to comply as evidence in an unlawful detainer action based on the tenant's failure to pay the higher rent. In addition, the Ordinance enables a tenant to file a civil lawsuit against a landlord based on alleged violations of the Ordinance in which the tenant may recover damages and reasonable attorneys' fees. The City would also be able to issue administrative and other citations for violations and seek civil penalties and injunctive relief.

Notwithstanding the above, staff recognizes that it will take some time for landlords (and tenants) to understand this new program. Accordingly, it will be staff's intent to educate landlords for mistakes and misunderstandings, not take punitive action.

### Annual Review/Suspension or Repeal of the Ordinance

The Ordinance will require an annual report to the City Council regarding the effectiveness of the program and data on the rental housing market (average rent increases above 3%, type and frequency of notices of termination, other than just cause eviction notices, the results of the requests for Program Administrator review of rent increases, number of requests for the binding hearing process and the outcomes thereof, etc.)

Currently, the residential rental vacancy rate is substantially below 5%. When staff determines, based on a number of factors, that the vacancy rate for a 12 month period is greater than 5%, staff will place an item on the Council agenda for discussion and potential action. At that time, Council will evaluate not only the data upon which staff concluded the vacancy rate had been above 5% for 12 months but also any other relevant factors relative to the rental market. Based on that, Council could decide to suspend or repeal some or all of the Ordinance. Notwithstanding that, of course Council always retains the discretion to suspend or repeal some or all of the Ordinance.

## ***2) Resolution Adopting a Capital Improvement Plan Policy***

The Ordinance requires that a property owner have an approved Capital Improvement Plan before increasing rents if the proposed rent increase is over 3%, to recover the cost of capital improvements. In addition, a landlord is required to obtain a Capital Improvement Plan whenever capital improvement work necessitates the tenant not remaining in the rental unit while the work is being performed. Landlords are not required to prepare a Capital Improvement Plan if the proposed rent increase is 3% or less and there will be no termination of tenancies associated with the work. Staff has drafted a policy concerning Capital Improvement Plans for Council's consideration and adoption. The Plan's purpose is to encourage landlords to improve the quality of the City's rental housing stock, to ensure landlords get a fair return on that investment, and

to provide that tenants are not unreasonably displaced as a result. This will be accomplished in several ways.

First, a capital improvement means an improvement that materially adds value to the property or appreciably prolongs its useful life, has a useful life of more than a year, and the cost of which is to be amortized over a period of years. A capital improvement includes items such as painting of, or installing new siding on, the exterior of a building, a new roof, an upgrade of a foundation (including for seismic safety), new plumbing, electrical or heating, ventilation, and air conditioning (HVAC) system for the building, significant repairs due to termites or other insects, upgrades for water and energy efficiency or reduction in greenhouse gases, or improvements to enhance accessibility for persons with disabilities. It does not include expenses for routine repairs, replacement or maintenance, such as the interior painting of a unit, replacing carpets and drapes, or repairing or replacing furnished appliances.

A Capital Improvement Plan must not only be for a capital improvement as described above but also (1) the cost of the capital improvement must not be less than the product of eight times the amount of the monthly rent times the number of rental units that will be improved and (2) the Program Administrator must approve the Plan. A landlord requesting a rent increase above 3% for a capital improvement must file such a request with the Program Administrator, along with supporting documentation. Supporting documentation may include copies of invoices, signed contracts, material and labor receipts and the like, or if the work is to be done following approval of the Plan, documentation based on reasonable estimates of cost. If the Capital Improvement Plan is approved, the rent increase would go into effect when the work is completed.

Second, if it is determined that the work cannot be accomplished reasonably and safely with the tenant in the unit and the tenant has informed the landlord the tenant wishes to return to the unit after the work is completed (and pay the increased rent), the landlord is responsible for relocation benefits, even if the relocation is only temporary. If the work cannot be accomplished reasonably and safely with the tenant in the unit and the tenant is unwilling or unable to pay the increased rent, the landlord must provide to the tenant relocation assistance as described above.

### ***3) Preliminary Estimated Program Expenses and Fee***

Staff has been working closely with Management Partners to develop and understand all of the administrative and potential enforcement procedures that must be developed and implemented to carry out the requirements of the Ordinance and this work has included identifying estimated expenses associated with the program administration. As such, staff intends to bring forth documentation and a recommended program budget and fee resolution at the City Council's August 30, 2016 meeting when it will consider adopting the ordinance. However, at this time, staff has prepared an overview of initial costs associated with the program intended to provide a magnitude of program expenses and the program fee. Program cost centers include program administrative staff, program staff support from other City departments, hearing officers, program

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overhead/ internal service funding, (including / office space and utilities, program software, printing, postage, IT support, office equipment, consultant services, etc.) and a 3% contingency).

Because the rent stabilization and eviction program is creating a new regulatory framework for both rental property owners and residential tenants, the Ordinance provides that a program fee be imposed on all landlords whose property is subject to the ordinance, paid annually to cover all program costs (e.g., administration, legal support, public education, etc.). One-half of the fee (which would be a fee per unit) will be permitted to be passed on to the tenant and will not be included as rent when calculating the percentage rent increase.

For the purpose of this report, staff is assuming that 11,000 units will be subject to rent stabilization and therefore, it is using this number to determine program expenses and fees. Staff previously generated this number as part of the September 2015 City Council workshop concerning rent stabilization features. While not required, the Council may also consider requiring a landlord initiating a hearing to pay a portion (10%) of the cost of the hearing. Conversely, a tenant could be required to pay a smaller portion (5%) when it initiates a hearing. As indicated, all remaining hearing related costs would be applied to the annual program fee. However, at this time, this is not included in the preliminary fee estimates.

To assure full cost recovery, each year the City would review program expenses and prepare cost estimates for the next based on these actual costs and anticipated program expenses for the upcoming year. Staff anticipates that this activity would occur during the annual budget process.

Staff's preliminary estimate is that the proposed rent stabilization and other tenant protection program will cost approximately \$1,125,000 to \$1,377,000 annually, which translates to an estimated annual per unit program fee range of \$102 - \$125.

### Direct program Administrative Staffing

The primary purpose of the program administrative staff will be to manage the rent stabilization program in a way that:

- Fully informs affected renters and landlords of program responsibilities and program features through effective community outreach and education;
- Assures a timely, thorough, effective and fair review and decision process for program petitions;
- Provides effective scheduling and preparation for the hearings before the neutral hearing officer;
- Provides effective budget management;
- Monitors ongoing performance measurements to accurately assess the programs overall activity and effectiveness;

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The initial preliminary estimate for the ongoing program administration staffing anticipates 3.60 FTE. Of these, 3 FTE would new positions including a Housing and Community Services Manager (1 FTE); Administrative Analyst (1 FTE) and an Administrative Assistant (1 FTE). In addition to these new positions, it is also anticipated that 0.60 FTE of existing departmental staff, including the Director of Housing and Community Services (0.20 FTE), the Administrative Services Officer (0.2 FTE) and an Administrative Technician (0.20 FTE) will also provide program support. The Director of Housing and Community Services will serve as the Program Administrator.

The primary activities of the core program administrative team include collecting data and tracking for certain rent increases, coordinating and conducting public education (which will be substantial in the initial implementation phase), evaluating rent increases above 3%, participating in the binding hearing process including coordinating with the City Attorney's office on these matters, collecting data and tracking for "no fault" evictions, following up with tenants and property owners regarding compliance with the Ordinance requirements for notices of termination, and preparing the annual review.

When reviewing program staffing a number of factors need to be considered including the number and complexity of tenant and landlord rent petitions, the volume of general public program inquiries, the frequency of property withdrawals from the rental market, issues raised related to just cause for eviction provisions, and the amount of community outreach/education. In addition, the City Council's program vision is also important as some programs, such as the city of Berkeley's, spend considerable amount of staff time providing tenant program counseling and interceding to resolve ongoing tenant/landlord disputes while others, such as the city of Hayward's program, spend a minimal amount of time with these functions and operates in a limited way to assure ordinance compliance. Staffing requirements would also be impacted if the City Council determines a role for the City Housing Authority Commission. As a result of these uncertainties and service ranges, staff consider an incremental staffing approach or one utilizing limited term employees may be appropriate when making initial decisions regarding staffing. Further, some communities rely on third party non-profit agencies to provide core services, such as counseling, dispute resolution, and public outreach, as a means of being flexible and responsive in meeting program demands and this approach would impact ongoing expenses.

### Costs related to the hearing officer process

When a landlord with, or tenant in, a rental unit subject to rent stabilization does not agree with the decision of the Program Administrator, the party who does not agree with the decision may request a hearing officer to decide the rent increase/decrease, which decision will be binding (but subject to judicial review). As done in other jurisdictions with rent stabilization, the City will contract with hearing officers (e.g., attorneys who have expertise in this area of the law) to preside over the hearings. Staff estimates the hearing officer will bill on an average of 6 hours per hearing for preparing prior to the hearing, conducting the hearing, and then writing the decision. Staff estimates that

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there will be requests for approximately 24 hearings each year. The anticipated cost of hearing officer services, including court reporting, is approximately \$42,000 annually.

### Legal Staff Support

The City Attorney's Office estimates that it needs 0.25 FTE Assistant City Attorney positions and 0.15 FTE paralegal position to provide legal advice in support of the program, and when necessary, to represent the Program Administrator before the hearing officer, to represent the City in the event of any legal challenges, and pursue the Ordinance's penalties and enforcement provisions through both administrative citations and the judicial system.

### Finance Staff Support -Billing and Collections

The Finance Department will be responsible for billing rental property owners and for collections. The City will have to build a new database for tracking ownership information, results of petitions, exemptions, property withdrawals, etc. and other billing and records management functions. The Finance Department projects that providing these services will require 0.5 FTE of a Customer Service Representative to support the program.

When combined with the program staffing, a total of 4.5 FTE are anticipated for overall program administration.

### Program Overhead, Supplies/Services and Internal Services

Program overhead expenses include shared services and expenses such as those related to use of utilities, insurance, human resource services, etc. from other departments. Supplies and Services include such items as training, consultant services, translation services, database access, software licensing, copiers, office space, printing, postage, bank charges, office supplies, overall internal service fees, etc.

### Contingency

Because the Ordinance will be in effect prior to the time needed to fully staff the program, staff is considering interim staffing options. Various option could include temporary reassignment of existing employees and/or contract services from a local nonprofit, such as Legal Aid of Sonoma County or other sources, to provide some level of program services related to addressing questions, assisting with evictions issues.

As part of the overall budget, staff anticipates including a program contingency of approximately 3% to reflect the uncertainty of program activity.

### Program Fee

Final program cost and fee information will be based on obtaining 100% program cost recovery. Fees would be collected once annually and would be assessed on all units subject to the rent stabilization program. As indicated, staff estimated that 11,000 units would be subject to the fee.

The table below provides an estimated range of program costs and the Program Fee.

### **Initial Program Cost Estimate**

<b>Program Area</b>	<b>Estimated Annual Cost - Low</b>	<b>Estimated Cost - High</b>
Program Administrative Staff (3.6 FTE)	\$417,000	\$510,000
Legal and Finance Staff (0.9 FTE), Hearing Officer and interim contract staffing (0.9 FTE)	\$275,000	\$337,000
General Program Administrative Expenses (training, printing, postage, IT, consultant services, bank charges, translation services, overhead, internal service, etc.)	\$400,000	\$490,000
Contingency (3%)	\$33,000	\$40,000
Program Total	\$1,125,000	\$1,370,770
Estimated Per Unit Program Fee	\$102	\$125

### **FISCAL IMPACT**

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**

Introduction and (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 introduction (and 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

RENT STABILIZATION ORDINANCE  
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NOTIFICATION

N/A

ATTACHMENTS

- Ordinance
- Resolution

CONTACT

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