



**CITY OF ALBANY
CITY COUNCIL AGENDA
STAFF REPORT**

Agenda Date: June 4, 2018
Reviewed by: NA

SUBJECT: Rent Review Ordinance No. 2018-02, Second Reading – Pass-to-Print

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SUMMARY

Developing a rent review ordinance is identified as a goal within the City Council Strategic Plan in support of the objective to promote housing availability. Over the last several months, the City Council has been receiving information and providing direction on the implementation of a non-binding rent review program. The Council conducted a first reading of a draft rent review ordinance on April 2, 2018, a study session on May 7, 2018 for the Council to receive further comments from the community regarding the draft ordinance. The action before the Council is to adopt an ordinance to establish a Rent Review Program.

STAFF RECOMMENDATION

That the Council adopt Ordinance No. 2018-02 establishing a Rent Review Program – Second Reading – Pass-to-Print.

BACKGROUND

Developing a rent review ordinance is included as a goal within the City Council Strategic Plan in support of the objective to promote housing availability. Over the last several months, the City Council has been receiving information and providing direction on the implementation of a non-binding rent review program. On October 3, 2016, the City Council received a presentation by the Social & Economic Justice Commission regarding the feasibility of a rent review board and directed staff to conduct additional research regarding the establishment of a rent review program with non-binding mediation, including development of a draft ordinance for review by the Council at a future meeting as soon as possible. On November 16, 2016, staff facilitated a public workshop on policy questions associated with a rent review program. On December 5, 2016, the Council expressed support for developing an ordinance to protect against extraordinary rent increases and on March 6, 2017 authorized the release of a Request for Proposals for Rent Review Program Services. After reviewing the one submission received, staff determined

that the application did not sufficiently meet the components of the RFP. On January 8, 2018, the Council directed staff to develop the first draft of the ordinance and review by a 6-member task force consisting of 2 members each from the Social and Economic Justice Commission, Albany Property Rights Advocates and Diverse Housing Working Group. The task force was to meet up to two times, staff was to collect input and report to Council on areas of consensus, disagreement and provide a staff recommendation.

A draft ordinance was presented to the Council on April 2, 2018 that outlined the areas where the task force agreed on particular key elements. The draft ordinance also includes staff recommendations based on rent review programs established in other local jurisdictions for areas the task force could not come to agreement. The Council conducted a first reading of the ordinance and directed additional changes. Changes included additional language to clarify a number of items under definitions, the opportunity for rent review was adjusted to 5%, language was added under mediation to clarify what constitutes “good cause” should a tenant or landlord be unable to participate in a scheduled mediation session, clarifying language was added regarding factors that should be considered by a rent review officer regarding the necessity of a rent increase to include the fair market rental value of the subject rental property and an application fee for a tenant requesting rent review was added with the amount to be set by City Council Resolution.

The study session on May 7, 2018 was provided in advance of the second reading to help ensure the community had a full opportunity to discuss the elements of the proposed rent review ordinance. Council recommended that a whereas clause be added to the ordinance to include the study session held on May 7, 2018 and to move item 5-25.4(G) as item 5-25.4(E)(5) under Mediation. Council also requested review of the ordinance by outside counsel.

On May 21, 2018, Council held a closed session with outside counsel Michael Roush. The ordinance has been revised to reflect recommended technical revisions. The ordinance contains a sentence in Section 5-25.3(A) which provides that a rent increase imposed without proper notice is a defense to any subsequent eviction proceeding base on failure to pay rent. The revisions carry this same language over to Sections 5-25.4(D)(3) and 5-25.5(E)(4) so that the same consequence ensues if a landlord fails to participate in the conciliation and mediation processes.

Landlord representatives have recommended that the above provisions be deleted and replaced with an enforcement provision that allows the City to impose monetary fines on landlords who violate the ordinance by not providing required notices or failing to participate in the conciliation/mediation process. The Albany Municipal Code contains administrative fine provisions (A.M.C. Section 1-11.01) which allow imposition of fines for violations of City ordinances. To invoke these provisions, City staff would have to issue an administrative citation with a fine in an amount established by City Council resolution. A landlord who receives a citation would have an opportunity for an administrative appeal to a City-appointed hearing officer. The hearing officer’s decision, in turn, would be appealable to the Alameda County Superior Court. Because this

administrative citation process has not been utilized in recent memory, staff and the City Attorney would need to devote time to learning this process, and be prepared to retain outside hearing officers and defend staff-issued citations through the two-tiered appeal process. The enforcement mechanism in the proposed ordinance is to provide a defense to eviction for the benefit of tenants who have been subjected to invalid rent increases. Staff believes that this mechanism is preferable to administrative fines.

It should also be reiterated that the proposed ordinance is intended to serve as the framework for a rent review program, and not as rent control. As detailed in the ordinance, the rent review program is non-binding, requiring a landlord to notify tenants of the rent review program, as well as for both parties to participate in the rent review program if necessary due to a rent increase over the rent increase trigger amount.

FISCAL IMPACT

As indicated in the April 2, 2018 report, funding for the implementation of the program will be incorporated into the draft fiscal year 2018-19 operating budget. Expenses include contracting services for administration of the rent review program, conciliation and mediation services estimated at \$50,000 and staff costs to implement the program and act as liaison between residents and contractor estimated at \$45,000.

The ordinance includes discussion regarding cost reimbursement for the program. Based on current count, there are 2,004 rental units within the City. Staff is proposing a cost of \$15.00 per unit be applied to help cover overall costs associated with administering the rent review program. It should be noted that this cost is estimated to cover approximately one third of overall program costs and has been set at this level to avoid placing responsibility for funding the entire program on any one group. The fee per unit amount will be included in the City's Master Fee Schedule which is adopted annually by the Council (usually in May/June in advance of the fiscal year start in July). This will allow another opportunity on an ongoing basis for any amendment that may be needed to the cost per unit fee. Additionally, as requested by the Council on April 2, 2018, staff has also included language regarding an application fee that tenants would pay should they wish to utilize the rent review program. It is estimated that this fee would be approximately \$15.00 and would be incorporated into the City's Master Fee Schedule.

NEXT STEPS

The ordinance is before the City Council for Second Reading – Pass-to-Print. If approved, a summary of the ordinance will be published, and the ordinance will be posted at each of the City's posting locations (City Hall, Community Center, Senior Center and City's website). The ordinance will go into effect November 2, 2018.

Attachments

1. Ordinance No. 2018-02 (tracked changes version)