



## *Memorandum*

**To:** HONORABLE MAYOR AND CITY COUNCIL      **From:** Councilmember Chappie Jones

**Subject:** ACTIONS RELATED TO THE APARTMENT RENT ORDINANCE      **Date:** November 9, 2017

**Approved:**

### RECOMMENDATION

1. Approve option (a)(1) to retain the limit on annual rent increases as 5% with no banking, and implement a capital improvement pass through petition process for specified improvements including sustainability, safety and seismic upgrades and major system upgrades that improve housing services.
  - a. Allow the pass through of 50% of program administrative fees as included in option (a)(2).
2. Accept staff recommendation (c) to not include a one-year lease requirement and to also not include duplexes in the Apartment Rent Ordinance.

### BACKGROUND

The City began down the path of reassessing its rent control law in 2015, and after a year of work adopted comprehensive recommendations to the City's Housing Department at its meeting on April 19, 2016. The ordinance and regulations under consideration at the November 14<sup>th</sup> Council meeting are a culmination of the work that began in 2015. The City Council deliberated for many hours, as well as, heard testimony from many tenants and property owners. At the time, the 5% fixed annual increase represented a middle ground between the positions of the tenants and property owners. I believe that we should respect this compromise and the decisions that were made in 2016.

The 5% annual increase has only been in place since May of 2016, and we are still finding cases where tenants and landlords were unaware of the change. Any further change now, would only serve to create more confusion for all parties. We also have not had ample time to study and better understand the effect of the change to 5% and its impacts on the rental housing market in San Jose.

As was the reasoning when the Council adopted the fixed 5% change to rent control in 2016, keeping a fixed annual rate makes administration much easier, and provides more predictability. Lowering the annual allowable increase from the previous 8% to 5% provides relief to tenants, but still allowed for a reasonable rate of return to property owners. The fixed annual increase allowed

room for property owners to make necessary capital improvements without going through any additional capital pass through program. Changing to a system that utilizes CPI-U makes determining annual allowable increases much more complicated, and would require additional bureaucratic hurdles for both tenant and property owner. As we consider the Housing Department staffing required for the new changes, keeping the laws as simple to follow and understand as possible will make enforcement easier.

### *Shared Fees*

With the recent modifications to our business tax, as well as other changes, we have increased the burden on businesses within our City. As we look to increase the fees on our apartment owners in order to increase our housing staff, it seems fair that this burden should fall equally on owners and tenants as both will utilize the staff provided by the program.

### *Duplexes*

Duplexes have not traditionally been a part of our Apartment Rent Ordinance, and for good reason. This type of housing is one that looks more like a single-family home, and 1,394 duplex units out of the 6,393 duplex buildings in the City are likely owner occupied based on data from the County Assessor. There also has not been specific outreach to these owners as a part of this process, and adding them now would be unfair without additional outreach. The necessary staff work required for adding duplexes, as outlined in *Attachment N* of the staff report, is substantial for a department with many other important priorities.