



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand

**SUBJECT:** SEE BELOW

**DATE:** October 3, 2017

Approved

*D. D. S. Y. L.*

Date

*10/13/17*

**SUBJECT: EXTENSION OF THE INTERIM APARTMENT RENT ORDINANCE**

## RECOMMENDATION

Approve an ordinance amending Part 8 of Chapter 17.23 of Title 17 of the San José Municipal Code (Interim Ordinance) to extend the termination date of the Interim Ordinance until after the effective date of an Ordinance amending Chapter 17.23 consistent with Council direction (revised Apartment Rent Ordinance).

## OUTCOME

Extending the termination date of the Interim Ordinance will ensure that the requirements established by the Interim Ordinance remain in effect until the revised Apartment Rent Ordinance can be adopted and implemented.

## BACKGROUND

On April 19, 2016, the City Council considered changes to the Apartment Rent Ordinance (ARO). City Council directed staff to return with amendments making several permanent modifications to the ARO, including lowering the 8% allowable annual rent increase to 5%, eliminating the debt-service pass-through provision, and eliminating the capital improvement pass-through provision. Additionally, the City Council directed staff to return on May 10, 2016 with an urgency ordinance that provided a temporary pause in rent increases to apartments subject to the ARO.

On May 10, 2016, the City Council adopted the Interim Ordinance to reduce uncertainty for both tenants and landlords. The Interim Ordinance reduced the annual allowable rent increase on tenants from 8% to 5%, eliminated rent increases available through the pass-through provisions (including debt-service, capital improvement, rehabilitation, and operations & maintenance) and

implemented a fair return petition process. The Interim Ordinance was approved to be effective until January 1, 2017.

On August 30, 2016, the City Council approved amendments to the existing regulations for the Apartment Rent Ordinance (Interim Regulations) providing procedures for the fair return petition process. On September 27, 2016, the City Council adopted an amendment to the Interim Regulations to provide greater clarity regarding requirements for the fair return petition process.

On October 18, 2016, the City Council adopted an ordinance extending the termination date for the Interim Ordinance to June 30, 2017. On April 18, 2017, the City Council directed the staff to return with an ordinance to remove the ARO exemption for rental apartments with tenants whose rent is subsidized by any government agency.

On May 9, 2017, the City Council approved an extension of the Interim Ordinance from June 30, 2017 to December 31, 2017 or sixty days after the effective date of revised Apartment Rent Ordinance to ensure that the Ordinance and the regulations are completed prior to the expiration of the Interim Ordinance. The City Council also approved a Tenant Protection Ordinance.

It is the Housing Department's intention to return to the City Council with the revised Apartment Rent Ordinance prior to the end of the 2017 calendar year. The Department is requesting an extension of the Interim Ordinance until the revised Apartment Ordinance and the regulations are completed and approved by City Council.

## **ANALYSIS**

### **Extension of the Interim Apartment Rent Ordinance**

The Housing Department informed the City Council that it intended to return with the revised Apartment Rent Ordinance by the end of the 2017 calendar year. The table below identifies the City Council process along with the schedule for each Ordinance (Interim Ordinance and revised Apartment Rent Ordinance):

**Table 1. City Council Process, Interim Ordinance, updated Apartment Rent Ordinance (ARO) Schedule:**

<b>City Council Process</b>	<b>Interim Ordinance</b>	<b>Revised ARO</b>
1 <sup>st</sup> Reading	October 24, 2017	November 14, 2017
2 <sup>nd</sup> Reading	November 7, 2017	November 28, 2017
Ordinance Effective	December 7, 2017	December 28, 2017

The Housing Department wants to provide certainty to tenants and landlords regarding the annual allowable increase and other provisions related to the Interim Ordinance. Until the revised Apartment Rent Ordinance is adopted and implemented, the annual allowable rent

increase is set at 5% per the Interim Ordinance. If the Interim Ordinance is not extended past December 31, 2017, annual rent increases will reset on January 1, 2018 to 8% annually or 21% if last increase was more than twenty-four months.

The Housing Department has received extensive comments from the public that are being reviewed and incorporated into the new Apartment Rent Ordinance. In addition, staff has received additional input on the Tenant Protection Ordinance that will be brought back to City Council at that same time as the Apartment Rent Ordinance. City Council's approval of the extension of the Interim Ordinance will give adequate time for further public consideration due to the complexity of the revised Apartment Rent Ordinance. It will also allow for any unanticipated delays in the adoption and implementation of the revised Apartment Rent Ordinance.

#### **EVALUATION AND FOLLOW-UP**

The amended Apartment Rent Ordinance will be considered by the City Council on November 14, 2017. Once approved, the amended Apartment Rent Ordinance will replace the Interim Apartment Rent Ordinance.

#### **COMMISSION RECOMMENDATION/INPUT**

The Housing and Community Development Commission (HCDC) has not reviewed this specific action. However, the HCDC reviewed the draft amended Apartment Rent Ordinance on September 14, 2017 and October 5, 2017. The recommendations made by HCDC will be included for City Council consideration on November 14, 2017.

#### **PUBLIC OUTREACH**

This item will be posted on the City's Council Agenda website for the October 24, 2017 Council Meeting. The Housing Department will send notices regarding this meeting to ARO apartment owners and residents via its email interest lists.

#### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

HONORABLE MAYOR AND CITY COUNCIL

October 3, 2017

**Subject: Amendment the Interim Apartment Rent Ordinance**

Page 4

**CEQA**

Exempt, Section 15061(b)(3) No potential for causing a significant effect on the environment.  
File No. PP16-051.

/s/

JACKY MORALES-FERRAND

Director, Department of Housing

For questions, please contact Rachel VanderVeen, Program Administrator, at (408) 535-8231.