



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Jacky Morales-Ferrand  
Julia H. Cooper

**SUBJECT:** SEE BELOW

**DATE:** February 1, 2019

Approved

D. DSYL

Date

2/1/19

**SUBJECT: REPORT ON THE FEASIBILITY OF DEFERRING BOTH THE BUSINESS LICENSE TAX AND RESIDENTIAL OCCUPANCY AND APARTMENT RENT ORDINANCE FEES PAID BY LANDLORDS IMPACTED BY THE FEDERAL SHUTDOWN TENANT EVICTION MORATORIUM**

## RECOMMENDATION

Accept the report regarding the feasibility of deferring taxes and fees paid by landlords affected by the federal shutdown tenant eviction moratorium.

## OUTCOME

Provide information to the City Council regarding taxes and fees that may potentially be deferred for landlords impacted by the federal shutdown tenant eviction moratorium.

## BACKGROUND

On January 24, 2019, the Mayor and City Council adopted an Urgency Ordinance placing a moratorium on evictions for nonpayment of rent of tenants who have not received scheduled wage or rent subsidy payments due to the Federal Government Shutdown. The Mayor and City Council directed staff to evaluate temporary relief of fees and taxes paid by landlords not receiving rent from affected tenants, such as deferral of collection of occupancy fees, business taxes, and apartment rent ordinance fees (to the extent they have not already been paid).

The Mayor and City Council directed staff to return to City Council in approximately three weeks should the shutdown continue, allowing the City Council to consider a deferral of these fees until landlords have restored their receivables from eligible nonpaying tenants. On January 25, 2019, the Federal Government passed a short term spending bill, funding the government through February 15, 2019. The moratorium will expire in 30 days on February 24, 2019.

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**ANALYSIS**

The Urgency Ordinance adopted by the City Council provides eviction protections for tenants receiving federal housing vouchers (such as Section 8) and federal employees or contractors who are unable to pay rent due to the federal shutdown. Understanding this action may result in a financial impact to landlords, the City Council directed staff to evaluate the potential relief of taxes and fees paid to the City by landlords.

There are three distinctive taxes and fees charged to landlords by the City. Landlords of rental buildings with three apartments or more pay an annual Occupancy Fee and Apartment Rent Ordinance fee. Additionally, landlords operating a business in San José pay business tax on an annual basis. A summary of staffs' evaluation of each fee is included below.

*Occupancy Fees and Apartment Rent Ordinance Fees*

The Occupancy Fee is charged to landlords on an annual basis as a cost recovery fee to fund the Multiple Housing Program, managed by the Department of Planning, Building, and Code Enforcement. The Apartment Rent Ordinance fee is a cost recovery fee to fund the Rent Stabilization Program, managed by the Housing Department. These two fees are combined on a single invoice and are billed to landlords in the fall of each year. The deadline for payment for the current year billing cycle was December 21, 2018. To date, the fees collected for 2018-2019 are 94% collected. The only outstanding fees available for deferral are delinquent accounts. Staff is not recommending the deferral of the Occupancy Fees and Apartment Rent Ordinance Fees since the majority of these fees are already collected for the current year.

*Business Tax – Residential Landlord Accounts*

With the passage of Measure G, Business Tax Modernization (November 2016), the business tax program was updated to include all landlords renting one or more units in San José. The tax is collected annually on a rolling basis, based on the original date of registration with the Business Tax Program. Landlords pay a base rate of approximately \$200 for one to two units on an annual basis. Additional units are charged an incremental tax of approximately \$10 per unit beyond the first two units. The Finance Department could establish a process for residential landlords, that are affected by nonpaying affected tenants, to request deferral of payment until the moratorium expires. During the moratorium period, no penalties and interest would be charged to the account.

**EVALUATION AND FOLLOW-UP**

If the federal shutdown occurs again, the City Council would need to consider a new tenant eviction moratorium and staff would return to the City Council with recommended fee and tax deferrals for impacted landlords.

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## **PUBLIC OUTREACH**

A Special Council meeting was held on January 24, 2019 to approve the Federal Shutdown Tenant Eviction Moratorium Memorandum.

## **COORDINATION**

This memorandum has been coordinated with the Department of Planning, Building, and Code Enforcement, the City Manager's Budget Office, and City Attorney's Office.

## **COMMISSION RECOMMENDATION/INPUT**

There is no City commission action on this item.

## **COST SUMMARY/IMPLICATIONS**

The impact of the postponement of receipt of funds should not have an impact if funds are received during the current fiscal year. If the Federal Government closure should cause the postponement of funds to 2019-2020, an analysis of the impact would need to be performed.

## **CEQA**

Not a Project, File No. PP17-008, General Procedure & Policy Making resulting in no changes to the physical environment.

/s/

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Director of Housing

/s/

JULIA H. COOPER  
Director of Finance

For questions, please contact Rachel VanderVeen, Deputy Director, at (408) 535-8231.