



City of Culver City

Staff Report

File #: 21-313, Version: 1

Item #: A-3.

CC - (1) Adoption of an Ordinance Amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to Add a New Subchapter 15.09.200, et seq., *Rent Control*; (2) Adoption of an Ordinance Amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to Add a New Subchapter 15.09.300, et seq., *Tenant Protections*; (3) Consideration of City's Role, if any, in *Ellis Act* Procedures for Removal of Rental Units from Rental Housing Use; and (4) Direction to the City Manager as Deemed Appropriate.

Meeting Date: September 29, 2020

Contact Person/Dept: Jesse Mays/City Manager's Office
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Fiscal Impact: Yes ☒ No ☐ **General Fund:** Yes ☒ No ☐

Public Hearing: ☐ **Action Item:** ☒ **Attachments:** ☐

Commission Action Required: Yes ☐ No ☒ **Date:**

Public Notification: (E-Mail) Meetings and Agendas - City Council, Culver City News and Events, Housing Issues, Media Organizations, Press Organizations, Public Notifications (09/22/2020 and 09/23/2020); Landlord Tenant Mediation Board (09/23/2020), Committee on Homelessness (09/23/2020), Apartment Association of Greater Los Angeles, California Apartment Association, Protect Culver City Renters, and Protect Culver City (09/23/2020)

Department Approval: John Nachbar (09/23/2020)
Sol Blumenfeld (09/23/2020)

RECOMMENDATION

Staff recommends the City Council (1) adopt an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.200, et seq., *Rent Control* (***Attachment 1***); (2) adopt an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.300, et seq., *Tenant Protections* (***Attachment 2***); (3)

consider the City's role, if any, in *Ellis Act* procedures for removal of rental units from rental housing use; and (4) provide direction to the City Manager as deemed appropriate.

BACKGROUND / DISCUSSION

At its September 21, 2020 meeting, the City Council considered permanent Tenant Protection and Rent Control Ordinances, which are intended to take the place of the current Interim Rent Control Ordinance ("IRCO"). After considering public comment and extensive discussion, the City Council (1) unanimously introduced the Tenant Protection Ordinance; and (2) by a vote of 4-1 (Eriksson dissenting) introduced the Rent Control Ordinance. In addition, the City Council deferred discussion of the City's role, if any, in *Ellis Act* procedures for removal of rental units from rental housing use.

Tenant Protection Ordinance

In response to public comment, the following changes were incorporated into the proposed Tenant Protection Ordinance prior to its introduction and are reflected in ~~strike-through~~ and underline text in **Attachment 3**:

1. **Section 15.09.305.P - Definition of Small Landlord.** Changed the definition to include a Landlord who owns no more than three units (instead of four) located within or outside of Culver City.
2. **Section 15.09.310 - Evictions.** Subsections A.2 and B.4.A were changed to reflect City Council's desire to modify the "vesting" period from six months to 12 months, during which a tenant is not subject to eviction protections.
3. **Section 15.09.315 - For Cause Termination.**
 - Subsection A - Clarified language regarding the 3-day notice to pay or quit to indicate tenant's failure to pay is measured from within three days of being "served" with the notice rather than "receiving" the notice.
 - Subsection D.3 - Clarified that "for cause" grounds includes where tenant has created or is maintaining a dangerous "or" unsanitary condition, rather than dangerous "and" unsanitary, and defined "unsanitary" condition.
4. **Section 15.09.320 - No Fault Termination.**
 - Subsection B.1 - Changes the residency requirement for a landlord or landlord's relative who has moved in after tenant's eviction from 12 months to three years to qualify as a "no fault" eviction.
 - Section D - Restores the IRCO provision allowing for a "no fault" eviction when Landlord recovers possession of the unit due to a government agency's or other order requiring tenant to vacate.

5. Section 15.09.325 - Relocation Assistance.

- Subsection A - Changes the method for calculating relocation assistance from using current monthly rent in effect as a metric to using the greater of current monthly rent or market rent.
- Subsection B.3 - Clarifies that past due rent that may be deducted from the relocation assistance payment shall not include back rent that accrued during the City's Residential Tenant Eviction Moratorium period.
- Subsection C.3 - Restores the IRCO provision exempting the payment of relocation assistance where the no fault eviction was the result of vacation of the unit due to conditions caused by a natural disaster or act of God.

6. Section 15.09.330 - Tenant Protections During Temporary Untenantable Conditions.

- Subsections A, C.1, E.9 and F - Changes reflecting the desire to not define "temporary" untenantable conditions by a set time frame and, instead follow the City of LA's provision, which does not define a set period and provides the tenant with the option to voluntarily terminate if the conditions are projected to last for 30 days or more; and renew that option if the conditions persist for 30 days or longer than the projected completion date of the work.
- Subsections D and E - Clarification suggested by staff, moving Subsection D.2 to Subsection E.1.
- Subsection E.9 - Changes the required notice regarding the commencement of construction from 24 hours to 30 days, or as soon as practicable in the event of an emergency and in no event less than 24 hours.

Staff has also corrected a typo throughout the document, changing the effective date of the Ordinance and expiration date of the IRCO from October 29, 2020 to October 30, 2020.

Rent Control Ordinance

In response to public comment, the following changes were incorporated into the proposed Rent Control Ordinance prior to its introduction, and are reflected in ~~strike-through~~ and underline text in **Attachment 4**:

1. Section 15.09.210 Exemptions. Added language to Subsections A and B to reflect that if California Proposition 21 is approved by voters in the November 2020 election, units occupied for longer than 15 years and corporate-owned single family homes would not be exempt and would be subject to City's rent control ordinance.

2. Section 15.09.215.B Annual Permissible Rent Increases.

- Subsection B.1 - Changed the guaranteed maximum, or the "ceiling," of any potential increase from 6% to 5% regardless of the Percentage Change in CPI.
- Subsection B.2 - Added a guaranteed minimum, or the "floor," of any potential increase authorizing the landlord to increase rent by at least 2% regardless of the Percentage Change in CPI.
- Subsection B.4 - Clarified language to reflect the intent that a prior increase under the IRCO in combination with a rent increase under the permanent ordinance may not

exceed the maximum allowable annual rent increase.

3. Section 15.09.215.D Rent Increases Following Vacancies.

- Subsection D.1.a - Provides that a voluntary vacation of the unit by a tenant does not include tenant's vacation in lieu of temporary relocation during untenable conditions lasting more than 30 days.
- Subsection D.1.c - Changes the residency requirement for a landlord or landlord's relative who has moved in after tenant's eviction from 12 months to three years before a unit can be set to market rent.
- Subsection D.2 - Does not allow a unit to be set to market rent when the tenant was evicted during the initial 12 months of their tenancy or the "vesting" period.

4. Section 15.09.225.B Eligible Capital Improvements.

Clarifies the intent of City Council to allow pass-through costs for capital improvement projects involving the addition of new capital improvements, but not the renovations or replacement of existing capital improvements.

Staff has also corrected a typo throughout the document, changing the effective date of the Ordinance and expiration date of the IRCO from October 29, 2020 to October 30, 2020.

Ellis Act Procedures

The *Ellis Act* (Government Code Sections 7060 - 7060.7) provides that landlords have the unconditional right to evict tenants to "go out of business" and specifically prohibits a public entity from compelling a landlord to offer, or continue to offer, housing accommodations in the property for rent or lease. The *Ellis Act* provides the following tenant protections:

- tenants must receive 120 days' notice before being evicted;
- if the property is returned to the rental market within 5 years, the rental units must be offered to the evicted tenants at the rent that was in effect at the time of eviction plus annual adjustments; and
- if the property is returned to the rental market within 2 years, then in addition to the tenants' right to reoccupy, the landlord is liable to the tenants for actual and exemplary damages and the City may bring an action for exemplary damages.

In addition, the *Ellis Act* authorizes local jurisdictions that have instituted rent control to impose additional protections and procedural requirements on landlords who wish to withdraw their property from the rental market. These include:

- requiring the owner to file with the City a notice of intent to withdraw the property;
- extending the eviction notice period from 120 days to one year if the tenant is 62 years of age or older or is disabled;
- recording a notice with County Recorder that imposes the same requirements on a successor-in-interest to the owner; and
- imposing additional notice and procedural requirements to permit the City to track the withdrawal process and the status of the property after withdrawal and to keep tenants informed during the withdrawal process.

The *Ellis Act* does not prevent the City from imposing relocation assistance or other requirements

designed to mitigate the hardship imposed by eviction when property is withdrawn from the rental market, such as the protections in the IRCO and the proposed Tenant Protection Ordinance that is under consideration.

If the City Council wishes to impose the additional requirements authorized by the *Ellis Act*, staff will return with a proposed ordinance for City Council's consideration at a future City Council meeting. If such requirements are adopted, this would add another level of implementation and enforcement, which would increase the amount of staff resources involved with administering the Permanent Program.

FISCAL ANALYSIS

Cost is an important consideration when designing a permanent rent control and tenant protections program. The Permanent Program as proposed contains additional program features beyond those provided in IRCO, such as capital improvement cost recovery pass-throughs, tenant protections for temporary untenable conditions, tenant buyout agreements, and anti-harassment provisions. These additional program features will add additional costs to the existing approximately \$450,000 annual cost of IRCO. It is expected that some combination of one to two new staff members, utilization of additional consulting services, and/or expanded scope of services from existing consulting services, will be necessary to implement the Permanent Program. This is expected to cost an additional \$200,000 to \$500,000 annually. Therefore, the total annual cost of the Permanent Program is expected to range between \$650,000 and \$950,000. If landlords or tenants file a significant number of petitions and/or appeals, that cost could increase by an additional \$100,000.

The proposed Ordinances allow for new rental registration fees that could raise revenue to cover a significant portion or all of the cost of the Permanent Program through a per-unit cost-recovery fee charged annually to the landlord. Based on Census estimates, there are approximately 7,555 rental units in Culver City. Of those, 5,780 units have registered with the City during IRCO as part of the registration requirement as of August 31, 2020. A fee of \$113/unit in Culver City charged to each of the 5,780 registered units would raise approximately \$650,000 annually. A fee of \$165/unit would raise approximately \$950,000 annually. A fee of \$182/unit would raise approximately \$1,050,000 annually. These fees are within the range of unit registration fees charged in neighboring cities. For example, Santa Monica charges an annual fee of \$198/unit, and West Hollywood's annual fee is \$144/unit. City Council would have to consider the economic impact on a new fee that would result in additional costs to landlords. Any fee would be considered at a future City Council meeting.

Other nearby jurisdictions have significantly higher costs for their rent control programs. Santa Monica and West Hollywood have annual rent control budgets of \$4.75 million and \$2.2 million respectively. Both communities have more rental units than Culver City (27,445 in Santa Monica and 16,895 in West Hollywood compared to estimated 7,555 in Culver City).

ATTACHMENTS

1. 2020-09-29_ATT 1_ Proposed Rent Control Ordinance
2. 2020-09-29_ATT 2_ Proposed Tenant Protections Ordinance
3. 2020-09-29_ATT 3_ Changes to Tenant Protections Ordinance

4. 2020-09-29_ATT 4_Changes to Rent Control Ordinance

MOTION

That the City Council:

1. Adopt an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.200, et seq., *Rent Control*; and
2. Adopt an Ordinance amending Chapter 15.09, *Rental Housing*, of the Culver City Municipal Code to add a new Subchapter 15.09.300, et seq., *Tenant Protections*; and
3. Consider the City's role, if any, in Ellis Act procedures for removal of rental units from rental housing use; and
4. Provide direction to the City Manager as deemed appropriate.